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CHAPTER 946

An act to amend Section 11479 of, and to add Section 11479.1 to, the Health and Safety Code, relating to chemicals.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 11479 of the Health and Safety Code is amended to read:

11479. Notwithstanding the provisions of Sections 11474 and 11474.5, at any time after seizure by a law enforcement agency of a suspected controlled substance, that amount in excess of 10 pounds in gross weight may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Notwithstanding the provisions of Sections 11474 and 11474.5, at any time after seizure by a law enforcement agency of a suspected hazardous chemical believed to have been used or intended to have been used in the unlawful manufacture of controlled substances, that amount in excess of two fluid ounces if liquid, or two avoirdupois ounces if solid, and its container, may be disposed of without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(a) At least five random and representative samples have been taken, for evidentiary purposes, from the total amount of suspected controlled substances to be destroyed.

(b) At least one 2-ounce sample has been taken from each suspected hazardous chemical to be destroyed.

(c) Photographs have been taken which reasonably demonstrate the total amount of the suspected controlled substance or container of the suspected hazardous chemical sampled and to be destroyed.

(d) The gross weight of the suspected controlled substance or suspected hazardous chemical has been determined, either by actually weighing the suspected controlled substance or suspected hazardous chemical, or by estimating such weight after dimensional measurement of the total suspected controlled substance or container of the suspected hazardous chemical. When the suspected controlled substance consists of growing or harvested plants, only a representative sample need to be retained for evidentiary purposes.

(e) The chief of the law enforcement agency has determined that it is not reasonably possible to preserve the suspected controlled substance in place, or to remove the suspected controlled substance to another location. In making this determination, the difficulty of transporting and storing the suspected controlled substance to another site and the storage facilities may be taken into consideration.

Subsequent to any destruction of a suspected controlled substance pursuant to this section, an affidavit shall be filed within 30 days in the court which has jurisdiction over any pending criminal proceedings pertaining to that suspected controlled substance, reciting the applicable information required by subdivisions (a), (b), (c), (d), and (e) together with information establishing the location of the suspected controlled substance, and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending which pertain to that suspected controlled substance, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom such criminal charges might be filed.

Subsequent to any disposal of a suspected hazardous chemical and its container pursuant to this section, the law enforcement agency involved shall maintain records concerning the details of its compliance with, and reciting the applicable information required by, subdivisions (a), (b), (c), (d), and (e), together with the information establishing the location of the suspected hazardous chemical and its container, and specifying the date and time of the disposal.

A law enforcement agency responsible for the disposal of any hazardous chemical shall comply with the provisions of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code, as well as all applicable state and federal laws and regulations.

For the purposes of this section, "hazardous chemical" means any material that is believed by the chief of the law enforcement agency to be toxic, carcinogenic, explosive, corrosive, or flammable, and that is believed by the chief of the law enforcement agency to have been used or intended to have been used in the unlawful manufacture of controlled substances.

SEC. 2. Section 11479.1 is added to the Health and Safety Code, to read:

11479.1. (a) Notwithstanding the provisions of Sections 11474, 11474.5, and 11479, at any time after seizure by a law enforcement agency and identification by a forensic chemist or criminalist of phencyclidine, or an analog thereof, that amount in excess of one gram of a crystalline substance containing phencyclidine or its analog, 10 milliliters of a liquid substance containing phencyclidine or its analog, two grams of plant material containing phencyclidine or its analog, or five hand-rolled cigarettes treated with phencyclidine or its analog, may be destroyed without a court order by the chief of the law enforcement agency or a designated subordinate. Destruction shall not take place pursuant to this section until all of the following requirements are satisfied:

(1) At least one gram of a crystalline substance containing phencyclidine or its analog, 10 milliliters of a liquid substance containing phencyclidine or its analog, two grams of plant material containing phencyclidine or its analog, or five hand-rolled cigarettes

treated with phencyclidine or its analog have been taken as samples from the phencyclidine or analog to be destroyed.

(2) Photographs have been taken which reasonably demonstrate the total amount of phencyclidine or its analog to be destroyed.

(3) The gross weight of the phencyclidine or its analog has been determined by actually weighing the phencyclidine or analog.

(b) Subsequent to any destruction of phencyclidine or its analog, an affidavit shall be filed within 30 days in the court which has jurisdiction over any pending criminal proceedings pertaining to that phencyclidine or its analog, reciting the applicable information required by paragraphs (1), (2), and (3) of subdivision (a), together with information establishing the location of the phencyclidine or analog and specifying the date and time of the destruction. In the event that there are no criminal proceedings pending which pertain to that phencyclidine or analog, the affidavit may be filed in any court within the county which would have jurisdiction over a person against whom such criminal charges might be filed.

SEC. 3. 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 947

An act to amend Sections 1034 and 1036 of, and to add Section 1036.5 to, of the Penal Code, relating to criminal proceedings.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 1034 of the Penal Code is amended to read:

1034. In a criminal action pending in a municipal or justice court, the court shall order a change of venue:

(1) On motion of the defendant, to another judicial district when it appears that there is a reasonable likelihood that a fair and impartial trial cannot be had in the judicial district. When a change of venue is ordered by a municipal or justice court, it shall be for the trial itself. All proceedings before trial shall occur in the judicial district of original venue, except when it is evident that a particular proceeding must be heard by the judge who is to preside over the trial.

(2) On its own motion or on motion of any party, to an adjoining

judicial district in the same county when it appears as a result of the exhaustion of all of the jury panels called that it will be impossible to secure a jury to try the cause in the judicial district or, when for the same reason it appears that it will be impossible to try the cause in any judicial district in the county, to a judicial district in an adjoining county.

SEC. 2. Section 1036 of the Penal Code is amended to read:

1036. Unless the court reserves jurisdiction to hear other pretrial motions, if a defendant is incarcerated and the court orders a change of venue to another county, the court shall direct the sheriff to deliver the defendant to the custody of the sheriff of such other county for the purpose of trial.

SEC. 7. Section 1036.5 is added to the Penal Code, to read:

1036.5. Following the resolution of pre-trial motions, and prior to the issuance of an order under Section 1036 or the transmittal of the case file for the purpose of trial to the court to which venue has been ordered transferred, the court may, upon its own motion or the motion of any party and on appropriate notice to the court to which venue has been transferred, set aside its order to change venue on the ground that the conditions which originally required the order to change venue, as set forth in Section 1033 or 1034, no longer apply.

CHAPTER 948

An act to amend Sections 11470, 11473, 11473.1, 11488, 11488.2, 11488.4, 11488.5, and 11488.6 of, to amend and renumber Sections 11498 and 11499 of, to add Sections 11473.2 and 11489 to, to repeal Sections 11488.3, 11490, 11491, 11491.1, 11491.2, 11491.3, 11491.4, 11491.5, 11491.6, 11491.7, 11493, 11493.1, 11494, 11495, 11495.1, and 11495.5 of, and to repeal and add Sections 11492 and 11493 to, the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 11470 of the Health and Safety Code is amended to read:

11470. The following are subject to forfeiture:

(a) All controlled substances which have been manufactured, distributed, dispensed, or acquired in violation of this division.

(b) All raw materials, products and equipment of any kind which are used, or intended for use, in manufacturing, compounding, processing, delivering, importing, or exporting any controlled substance in violation of this division.

(c) All property which is used, or intended for use, as a container for property described in subdivision (a) or (b).

(d) All books, records, and research products and materials, including formulas, microfilm, tapes, and data which are used, or intended for use, in violation of this division.

(e) The interest of any registered owner of a boat, airplane, or any vehicle other than an implement of husbandry, as defined in Section 36000 of the Vehicle Code, which has been used as an instrument to facilitate the possession for sale or sale of 28.5 grams or more of Schedule I controlled substances except marijuana, peyote or psilocybin; 10 pounds dry weight or more of marijuana, peyote or psilocybin; or 28.5 grams or more of any Schedule II controlled substances and the defendant has been convicted of a violation of Section 11351, 11352, 11353, 11359, 11360, 11361, 11378, 11378.5, 11379, 11379.5, or a conspiracy to commit any such violation and the vehicle was used in the commission of the crime for which the conviction was obtained. No interest in a vehicle which may be lawfully driven on the highway with a class 3 or class 4 license, as prescribed in Section 12804 of the Vehicle Code, may be forfeited under this subdivision if there is a community property interest in the vehicle by a person other than the defendant and the vehicle is the sole class 3 or class 4 vehicle available to the defendant's immediate family.

(f) All moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance in violation of Section 11351, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale, or offer to manufacture, or conspiracy to commit at least one of those offenses, all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of Section 11351, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, or 11382 of this code, or Section 182 of the Penal Code, insofar as the offense involves manufacture, sale, possession for sale, offer for sale or offer to manufacture, or conspiracy to commit at least one of those offenses, provided that the individual is arrested and convicted, for any of the offenses enumerated in this subdivision, and provided further that, the exchange, violation, or other conduct which is the basis for the forfeiture occurred within five years of the arrest leading to the conviction of any of the offenses enumerated in this subdivision.

SEC. 2. Section 11473 of the Health and Safety Code is amended to read:

11473. All seizures under provisions of this chapter, except seizures of vehicles, boats, or airplanes, as specified in subdivision (e) of Section 11470, or seizures of moneys, negotiable instruments, securities, or other things of value as specified in subdivision (f) of Section 11470, shall, upon conviction of the owner or defendant, be ordered destroyed by the court in which conviction was had.

SEC. 3. Section 11473.1 of the Health and Safety Code is amended to read:

11473.1. All seizures under provisions of this chapter of vehicles which may be lawfully driven upon the highway which a class 3 or class 4 license shall, upon conviction of the defendant, be ordered sold by the court in which conviction was had and the proceeds distributed pursuant to Section 11489.

SEC. 4. Section 11473.2 is added to the Health and Safety Code, to read:

11473.2. All seizures under provisions of this chapter of vehicles, boats, or airplanes, excluding vehicles which may be lawfully driven upon the highway with a class 3 or class 4 license, may, upon conviction of the defendant, be placed in the name of the law enforcement agency for use in its law enforcement program. A certified copy of the judgment of forfeiture issued by the court as a result of the proceeding, filed with the Department of Motor Vehicles, appropriate federal agency, or other appropriate registry, shall constitute authority for the government entity to convey clear title in its own name for use in its law enforcement program.

SEC. 5. Section 11488 of the Health and Safety Code is amended to read:

11488. (a) Any peace officer of this state, subsequent to making or attempting to make an arrest for a violation of Section 11351, 11352, 11355, 11359, 11360, 11378, 11378.5, 11379, 11379.5, or 11382 of this code, or Section 182 of the Penal Code insofar as the offense involves manufacture, sale, possession for sale or offer to manufacture or sell, or conspiracy to commit one of those offenses, may seize all moneys, negotiable instruments, securities, boats, vehicles, airplanes, or other things of value which the officer has probable cause to believe are forfeitable pursuant to subdivision (e) or (f) of Section 11470.

(b) The peace officer shall notify the Franchise Tax Board of a seizure where there is reasonable cause to believe that the value of the seized property exceeds five thousand dollars ($5,000).

(c) Receipts for property seized pursuant to this section shall be delivered to any person out of whose possession such property was seized, in accordance with Section 1412 of the Penal Code. In the event property seized was not seized out of anyone's possession, receipt for the property shall be delivered to the individual in possession of the premises at which the property was seized.

(d) There shall be a presumption affecting the burden of proof that the person to whom a receipt for property was issued is the owner thereof. This presumption may, however, be rebutted at the forfeiture hearing specified in Section 11488.5.

SEC. 6. Section 11488.2 of the Health and Safety Code is amended to read:

11488.2. Within 15 days after the seizure, if the peace officer does not hold the property seized pursuant to Section 11488 for evidence or if the law enforcement agency for which such person is employed does not initiate forfeiture proceedings pursuant to Section 11488.1, the officer shall comply with any notice to withhold issued with

respect to the property by the Franchise Tax Board. If no notice to withhold has been issued with respect to the property by the Franchise Tax Board, the officer shall return the property to the individual designated in the receipt therefor or if the property is a vehicle, boat, or airplane, it shall be returned to the registered owner.

SEC. 7. Section 11488.3 of the Health and Safety Code is repealed.

SEC. 8. Section 11488.4 of the Health and Safety Code is amended to read:

11488.4. (a) If the Department of Justice or the local governmental entity determines that the factual circumstances do warrant that the moneys, negotiable instruments, securities, or other things of value seized come within the provisions of subdivision (e) or (f) of Section 11470, the Attorney General or district attorney shall file a petition of forfeiture with the superior court of the county in which the defendant has been charged with the underlying criminal offense.

(b) The prosecuting attorney shall cause to be recorded a lis pendens on any real property alleged to be forfeitable in the petition in the county in which the property is located.

(c) Physical seizure of assets shall not be necessary in order to have that particular asset alleged to be forfeitable in a petition under this section. The prosecuting attorney may seek protective orders for any asset pursuant to Section 11492.

(d) The Attorney General or district attorney shall make service of process regarding this petition upon every individual designated in a receipt issued for the property seized. In addition, the Attorney General or district attorney shall cause a notice of the seizure and of the intended forfeiture proceeding, as well as a notice stating that any interested party may file a verified claim with the superior court of the county in which the property was seized with respect to any interest in the property seized, to be served by personal delivery or by registered mail upon any person who has an interest in the seized property other than persons designated in a receipt issued for the property seized.

(e) An investigation shall be made by the law enforcement agency as to any claimant to a vehicle, boat, or airplane whose right, title, interest, or lien is of record in the Department of Motor Vehicles or appropriate federal agency. If the law enforcement agency finds that any person, other than the registered owner, is the legal owner thereof, and such ownership did not arise subsequent to the date and time of arrest or seizure of the vehicle, boat, or airplane, it shall forthwith send a notice of the seizure to such legal owner at his or her address appearing on the records of the Department of Motor Vehicles or appropriate federal agency.

(f) When a forfeiture action is filed, the notices shall be published once a week for three successive weeks in a newspaper of general circulation in the county where the seizure was made.

(g) All notices shall set forth the time within which a claim of

interest in the property seized is required to be filed pursuant to Section 11488.5.

(h) Nothing contained in this chapter shall preclude a defendant from moving for a return of property pursuant to Section 1538.5 of the Penal Code.

(i) A defendant may move for the return of the property on the grounds that there is not probable cause to believe that the property is forfeitable pursuant to subdivision (e) or (f) of Section 11470. The motion may be made at the preliminary examination or subsequent thereto. If made subsequent to the preliminary examination, the district attorney may submit the record of the preliminary hearing to establish that probable cause exists to believe that the underlying criminal violations have occurred.

Within 15 days after a defendant's motion is granted, the people may file a petition for a writ of mandate or prohibition seeking appellate review of the ruling.

(j) If the defendant is found guilty of the underlying criminal offense, the issue of forfeiture shall be tried before the same jury, if trial was by jury, or tried before the same court, if trial was by court, unless waived by all parties. At the hearing, the state or local governmental entity shall have the burden of proving beyond a reasonable doubt that the assets in question are subject to forfeiture pursuant to Section 11470.

SEC. 9. Section 11488.5 of the Health and Safety Code is amended to read:

11488.5. (a) (1) Any person claiming an interest in the property seized pursuant to Section 11488 may, at any time within 30 days from the date of the first publication of the notice of seizure, or within 10 days after receipt of actual notice, file with the superior court of the county in which the defendant has been charged with the underlying criminal offense a verified claim stating his or her interest in the property seized. A verified copy of the claim shall be given by the claimant to the Attorney General or district attorney, as appropriate.

(2) Any person who claims that the property was assigned to him or to her prior to the seizure of the property under this chapter shall file a claim with the court pursuant to Section 11488.5 declaring an interest in that property and such interest shall be adjudicated at the forfeiture hearing. The property shall remain under control of the law enforcement or prosecutorial agency until the adjudication of the forfeiture hearing.

(3) The claim of a law enforcement agency to property seized pursuant to Section 11488 shall have priority over a claim to the seized property made by the Franchise Tax Board in a notice to withhold issued pursuant to Section 18817 or 26132 of the Revenue and Taxation Code.

(b) (1) If, at the end of the time set forth in subdivision (a), there is no claim on file, the court, upon motion, shall declare the property seized pursuant to subdivision (e) or (f) of Section 11470 forfeited to

the state upon conviction of a violation set forth in subdivision (e) or (f) of Section 11470.

(2) The clerk of the court shall dispose of the forfeited property as set forth in Section 11489.

(c) (1) If a verified claim is filed, the forfeiture proceeding shall be set for hearing on a day not less than 30 days therefrom, and the proceeding shall have priority over other civil cases. Notice of the hearing shall be given in the same manner as provided in Section 11488.4. Such verified claim shall not be admissible in the proceedings regarding the underlying criminal offense set forth in subdivision (a) of Section 11488.

(2) The hearing shall be by jury, unless waived by consent of all parties.

(d) (1) At the hearing, the state or local governmental entity shall have the burden of establishing beyond a reasonable doubt that the owner of any interest in the seized property consented to the use of the property with knowledge that it would be or was used for a purpose for which forfeiture is permitted.

(2) No interest in the seized property shall be affected by a forfeiture decree under this section unless the state or local governmental entity has proven that the owner of such interest consented to the use of the property with knowledge that it would be or was used for the purpose charged. No forfeiture shall be ordered unless and until a conviction is had for an offense set forth in subdivision (e) or (f) of Section 11470.

(e) The forfeiture hearing may be continued, and upon motion of the defendant for the underlying criminal charges shall be continued, until after a verdict of guilty on the related charges has been decided. The forfeiture hearing shall be conducted in accordance with Sections 600 to 630, inclusive, of the Code of Civil Procedure if a trial by jury, and by Sections 631 to 636, inclusive, of the Code of Civil Procedure if by court. Unless the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, the court shall order the seized property released to the person it determines is entitled thereto.

If the court or jury finds that the seized property was used for a purpose for which forfeiture is permitted, but does not find that a person claiming an interest therein, to which the court has determined he or she is entitled, had actual knowledge that the seized property would be or was used for a purpose for which forfeiture is permitted, the court shall order the seized property released to the claimant.

(f) All seized property which was the subject of the forfeiture hearing and which was not released by the court to a claimant shall, upon motion, be declared by the court forfeited upon conviction of a violation set forth in subdivision (e) or (f) of Section 11470. Except as provided in Section 11473.2, the clerk of the court shall dispose of the forfeited property as set forth in Section 11489.

(g) All seized property which was the subject of the forfeiture

hearing and which was not forfeited shall remain subject to any order to withhold issued with respect to the property by the Franchise Tax Board.

SEC. 10. Section 11488.6 of the Health and Safety Code is amended to read:

11488.6. (a) If the court or jury at the forfeiture hearing finds that the property is forfeitable pursuant to subdivision (e) or (f) of Section 11470, but does not find that a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract acquired such interest with actual knowledge that the property was to be used for a purpose for which forfeiture is permitted, and the amount due such person is less than the appraised value of the property, such person may pay to the state or the local governmental entity which initiated the forfeiture proceeding the amount of the registered owner's equity, which shall be deemed to be the difference between the appraised value and the amount of the lien, mortgage, security interest, or interest under a conditional sales contract. Upon such payment, the state or local governmental entity shall relinquish all claims to the property. If the holder of the interest elects not to make such payment to the state or local governmental entity, the property shall be deemed forfeited to the state or local governmental entity and the ownership certificate shall be forwarded. The appraised value shall be determined as of the date judgment is entered on a wholesale basis either by agreement between the legal owner and the governmental entity involved, or if they cannot agree, then by the inheritance tax appraiser for the county in which the action is brought. A person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract shall be paid the appraised value of his or her interest in accordance with the provisions of Section 11489.

(b) If the amount due to a person holding a valid lien, mortgage, security interest, or interest under a conditional sales contract is less than the value of the property and the person elects not to make payment to the governmental entity, the property, excluding vehicles identified in Section 11473.2 which a law enforcement agency may place in its own name for use in its law enforcement program, shall be sold at public auction by the Department of General Services or by the local governmental entity which shall provide notice of such sale by one publication in a newspaper published and circulated in the city, community, or locality where the sale is to take place.

(c) The proceeds of sale pursuant to subdivision (b) shall be first distributed in accordance with the provisions of Section 11489.

SEC. 11. Section 11489 is added to the Health and Safety Code, to read:

11489. Notwithstanding Section 11502 and except as otherwise provided in Sections 11473 and 11473.2, in all cases where the property is seized pursuant to this chapter and forfeited to the state or local governmental entity and, where necessary, sold by the

Department of General Services or local governmental entity, the money forfeited or the proceeds of sale shall be distributed by the state or local governmental entity as follows:

(a) To the bona fide or innocent purchaser, conditional sales vendor, or mortgagee of the property, if any, up to the amount of his or her interest in the property, when the court declaring the forfeiture orders a distribution to such person.

(b) The balance, if any, to accumulate, and from time to time, as the proceeds become sufficient, to be distributed as follows:

(1) To the Department of General Services or local governmental entity for all expenditures made or incurred by it in connection with the sale of the property, including expenditures for any necessary repairs, storage, or transportation of any property seized under this chapter.

(2) (A) Fifty percent of the remaining funds shall be allocated to the Department of Mental Health for primary prevention programs in accordance with Chapter 1083 of the Statutes of 1981.

(B) The remaining 50 percent shall be distributed to the local governmental entity or the state for all expenditures made or incurred by the local governmental entity's law enforcement and prosecutorial agency or by the Department of Justice, or any other state agency, in connection with the forfeiture proceedings and underlying criminal conviction, including, but not limited to, personnel costs, expenditures for witness' fees, reporters' fees, transcripts, printing, traveling, undertakings, and investigation. Any remainder shall be distributed to the Controller for deposit into the Narcotics Assistance and Relinquishment by Criminal Offender Fund as provided in Section 11493.

All funds distributed to a local governmental entity under this subparagraph shall be distributed by that entity only to its law enforcement and prosecutorial agency to be used solely for investigation, detection, and prosecution of criminal activities. All funds distributed to the state under this subparagraph shall be allocated to the Department of Justice for investigation, detection, and prosecution of criminal activities. The first priority for the fund shall be to support financial investigator positions within the Department of Justice which will be utilized to support financial investigation undertakings by local or state law enforcement agencies. Funds distributed under this subparagraph shall not supplant any local funds that would, in the absence of the provisions of this subparagraph, be made available to support the law enforcement and prosecutorial efforts of local agencies.

(3) Each governmental agency seeking reimbursement under this subdivision shall notify the district attorney or the Attorney General prosecuting the forfeiture of the nature and amount of its claim. The prosecuting agency shall petition the court for these costs and the court shall order the forfeiture proceeds distributed to the local governmental entity or the state for any agency expenditures. Should the amount forfeited be insufficient to pay all expenditures

claimed, the court shall order the funds distributed on a pro rata basis.

(c) For the purposes of this section, "local governmental entity" means any city, county, or city and county in this state.

SEC. 12. Section 11490 as added to the Health and Safety Code by Section 1.5 of Chapter 637 of the Statutes of 1979 is repealed.

SEC. 13. Section 11491 of the Health and Safety Code is repealed.

SEC. 14. Section 11491.1 of the Health and Safety Code is repealed.

SEC. 15. Section 11491.2 of the Health and Safety Code is repealed.

SEC. 16. Section 11491.3 of the Health and Safety Code is repealed.

SEC. 17. Section 11491.4 of the Health and Safety Code is repealed.

SEC. 18. Section 11491.5 of the Health and Safety Code is repealed.

SEC. 19. Section 11491.6 of the Health and Safety Code is repealed.

SEC. 20. Section 11491.7 of the Health and Safety Code is repealed.

SEC. 21. Section 11492 of the Health and Safety Code is repealed.

SEC. 22. Section 11492 is added to the Health and Safety Code, to read:

11492. (a) Concurrent with, or subsequent to, the filing of the petition, the prosecuting agency may move the superior court for the following pendente lite orders to preserve the status quo of the property alleged in the petition of forfeiture.

(1) An injunction to restrain all interested parties and enjoin them from transferring, encumbering, hypothecating or otherwise disposing of that property.

(2) Appointment of a receiver to take possession of, care for, manage, and operate the assets and properties so that such property may be maintained and preserved.

(b) No preliminary injunction may be granted or receiver appointed without notice to the interested parties and a hearing to determine that such an order is necessary to preserve the property, pending the outcome of the criminal proceedings, and that there is probable cause to believe that the property alleged in the forfeiture proceedings are proceeds and property interests forfeitable under subdivision (e) or (f) of Section 11470. However, a temporary restraining order may issue pending that hearing pursuant to the provisions of Section 527 of the Code of Civil Procedure.

(c) Notwithstanding any other provision of law, the court in granting these motions may order a surety bond or undertaking to preserve the property interests of the interested parties.

SEC. 23. Section 11493 of the Health and Safety Code is repealed.

SEC. 23.5. Section 11493 is added to the Health and Safety Code, to read:

11493. There is hereby created in the General Fund the Narcotics Assistance and Relinquishment by Criminal Offender Fund. The fund shall be administered by an advisory committee which shall be appointed by the Attorney General and which shall be comprised of three police chiefs, three sheriffs, two district attorneys, one private citizen, and the Director of the Division of Law Enforcement of the Department of Justice who shall serve as the executive officer.

The money in the fund shall be available, upon appropriation by the Legislature, for distribution by the advisory committee to local and state law enforcement agencies in support of general narcotic law enforcement efforts.

SEC. 24. Section 11493.1 of the Health and Safety Code is repealed.

SEC. 25. Section 11494 of the Health and Safety Code is repealed.

SEC. 26. Section 11495 of the Health and Safety Code is repealed.

SEC. 27. Section 11495.1 of the Health and Safety Code is repealed.

SEC. 28. Section 11495.5 of the Health and Safety Code is repealed.

SEC. 29. Section 11498 of the Health and Safety Code is amended and renumbered to read:

11490. The provisions of this division relative to forfeiture of vehicles, boats, or airplanes shall not apply to a common carrier, or to an employee acting within the scope of his employment in the enforcement of this division.

SEC. 30. Section 11499 of the Health and Safety Code is amended and renumbered to read:

11491. Nothing in this chapter shall be construed to extend or change decisional law as it relates to the topic of search and seizure.

SEC. 31. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the local agency has the authority to petition for funds in an amount sufficient to pay for the program or level of service mandated by this act.

CHAPTER 949

An act to amend Sections 261, 286, and 288a of the Penal Code, relating to sex crimes.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 261 of the Penal Code is amended to read:

261. Rape is an act of sexual intercourse accomplished with a person not the spouse of the perpetrator, under any of the following circumstances:

(1) Where a person is incapable, because of mental disease, defect, or disorder or because of physical disability, of giving consent, and this is known or reasonably should be known to the person committing the act. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disease, defect, or disorder or physical disability rendered the alleged victim incapable of giving consent.

(2) Where it is accomplished against a person's will by means of force or fear of immediate and unlawful bodily injury on the person or another.

(3) Where a person is prevented from resisting by any intoxicating, narcotic, or anaesthetic substance, administered by or with the privity of the accused.

(4) Where a person is at the time unconscious of the nature of the act, and this is known to the accused.

(5) Where a person submits under the belief that the person committing the act is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief.

(6) 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 paragraph "threatening to retaliate" means a threat to kidnap or falsely imprison, or to inflict extreme pain, serious bodily injury, or death.

SEC. 2. Section 286 of the Penal Code is amended to read:

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

(b) (1) Except as provided in Section 288, any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

(2) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sodomy with another person who is under 16 years of age shall be guilty of a felony.

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he, or 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 sodomy 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 sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison, or in a county jail for a period of not more than one year.

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

(g) Any person who commits an act of sodomy, and the victim is at the time incapable, because of mental disease, defect, or disorder or because of physical disability, 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. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disease, defect, or disorder or physical disability rendered the alleged victim incapable of giving consent.

SEC. 3. 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, because of mental disease, defect, or disorder or because of physical disability, 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. Notwithstanding the existence of a conservatorship pursuant to the provisions of the Lanterman-Petris-Short Act (Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code), the prosecuting attorney shall prove, as an element of the crime, that a mental disease, defect, or disorder or physical disability rendered the alleged victim incapable of giving consent.

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 950

An act to add Section 667.8 to the Penal Code, relating to crimes.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 667.8 is added to the Penal Code, to read:

667.8. Any person convicted of a felony violation of Section 261, 264.1, 286, 288, 288a or 289 who, for the purpose of committing such sexual offense, kidnapped the victim in violation of Section 207, shall

be punished by an additional term of three years.

CHAPTER 951

An act to add Section 11353.5 to the Health and Safety Code, relating to controlled substances.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 11353.5 is added to the Health and Safety Code, to read:

11353.5. Except as authorized by law, any person 18 years of age or older who unlawfully prepares for sale upon school grounds or a public playground, sells, or gives away a controlled substance to a minor under the age of 14 years upon the grounds of, or within, any school providing instruction in kindergarten, or any of grades 1 through 12, inclusive, during hours in which the school is open for classes or school-related programs, or upon the grounds of a public playground during the hours in which school-related programs for minors are being conducted, shall be punished by imprisonment in the state prison for five, six, or seven years.

SEC. 2. This act shall be known and may be cited as "The School Safety Act of 1983."

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 952

An act to add Chapter 7 (commencing with Section 13860) to Title 6 of Part 4 of the Penal Code, relating to drug abuse, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983]

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

SECTION 1. Chapter 7 (commencing with Section 13860) is added to Title 6 of Part 4 of the Penal Code, to read:

CHAPTER 7. SUPPRESSION OF DRUG ABUSE IN SCHOOLS

13860. The Legislature finds and declares that a substantial drug abuse and drug trafficking problem exists among school-age children on and around school campuses in the State of California. By enacting this chapter, it is the intention of the Legislature to support increased efforts by local law enforcement agencies, working in conjunction with school districts and county drug offices to suppress trafficking and prevent drug abuse among school age children on and around school campuses through the development of innovative and model programs by local law enforcement agencies and schools and drug abuse agencies. As used in this chapter, drugs are defined as marijuana, inhalants, narcotics, dangerous drugs, pharmaceuticals, glue and alcohol. It is the further intention of the Legislature to establish a program of financial and technical assistance for local law enforcement and school districts.

13861. There is hereby created in the Office of Criminal Justice Planning the Suppression of Drug Abuse in Schools Program. All funds made available 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 State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863.

(a) The executive director, in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee, is authorized to allocate and award funds to local law enforcement agencies and public schools jointly working to develop drug abuse prevention and drug trafficking suppression programs in substantial compliance with the policies and critieria set forth in Sections 13862 and 13863.

(b) The allocation and award of funds shall be made upon the joint application by the chief law enforcement officer of the coapplicant law enforcement agency and approved by the law enforcement agency's legislative body and the superintendent and board of the school district coapplicant. The joint application of the law enforcement agency and the school district shall be submitted for review to the Local Suppression on Drug Abuse in Schools Advisory Committee established pursuant to paragraph (4) of subdivision (a) of Section 13862. After review, the application shall be submitted to the Office of Criminal Justice Planning. Funds disbursed under this chapter may enhance but shall not supplant local funds that would, in the absence of the Suppression of Drug Abuse in Schools Program, be made available to suppress and prevent drug abuse among school-age children and to curtail drug trafficking in and around

school areas.

(c) The coapplicant local law enforcement agency and the coapplicant school district may enter into interagency agreements between themselves which will allow the management and fiscal tasks created pursuant to this chapter and assigned to both the law enforcement agency and the school district to be performed by only one of them.

(d) Within 90 days of the effective date of this chapter, the Executive Director of the Office of Criminal Justice Planning in consultation with the State Suppression of Drug Abuse in Schools Advisory Committee established pursuant to Section 13863 shall prepare and issue administrative guidelines and procedures for the Suppression of Drug Abuse in Schools Program consistent with this chapter. In addition to all other formal requirements that may apply to the enactment of such guidelines and procedures a complete and final draft shall be submitted within 60 days of the effective date of this chapter to the Chairpersons of the Committee on Criminal Law and Public Safety of the Assembly and the Judiciary Committee of the Senate of the California Legislature.

(e) By July 1, 1984, or after a full year of program operation, the executive director shall prepare and submit an annual report to the Legislature describing in detail the operation of the program and the results obtained from the Suppression of Drug Abuse in Schools Program receiving funds under this chapter. The report shall also list the full costs applicable both to the Office of Criminal Justice Planning for processing and reviewing applications, and to the state and local agencies for obtaining grants, from any source, to support the program. The purpose of the program evaluation shall be to identify successful methods of conducting Suppression of Drug Abuse in Schools Programs. Ongoing evaluation findings shall be used to replicate proven successful methods, identify, implement, and refine new methods.

13862. Law enforcement agencies and school districts receiving funds under this chapter shall concentrate enhanced apprehension, prevention and education efforts and resources on drug abuse and drug trafficking in and around school campuses.

(a) Such enhanced apprehension, prevention, and education efforts shall include, but not be limited to:

(1) Drug traffic intervention programs.

(2) School and classroom-oriented programs, using tested drug abuse education curriculum that provides indepth and accurate information on drugs, which may include the participation of local law enforcement agencies and qualified drug abuse prevention specialists and which are designed to increase teachers' and students' awareness of drugs and their effects.

(3) Family oriented programs aimed at preventing drug abuse which may include the participation of community-based organizations experienced in the successful operation of such programs.

(4) The establishment of a Local Suppression of Drug Abuse in Schools Advisory Committee. The committee shall be established and appointed by the board of supervisors of each county and city and county. The committee may be a newly created committee or an existing local drug abuse committee as designated by the board. The committee shall be composed of, at a minimum, the following:

(A) Local law enforcement executives.

(B) School district executives.

(C) School site staff, which includes administrators, teachers or other credentialed personnel.

(D) Parents.

(E) Students.

(F) School peace officers.

(G) County drug program administrators designated pursuant to Section 11962 of the Health and Safety Code.

(H) Drug prevention program executives.

(5) Development and distribution of appropriate written and audio-visual aids for training of school and law enforcement staff for handling drug-related problems and offenses. Appropriate existing aids may be utilized in lieu of development of new materials.

(6) Development of prevention and intervention programs for elementary school teachers and students, including utilization of existing prevention and intervention programs.

(7) Development of a coordinated intervention system that identifies students with chronic drug abuse problems and facilitates their referral to a drug abuse treatment program.

(b) Enhanced apprehension, prevention, and education efforts commenced under this section shall be a joint effort between local law enforcement and local school districts in cooperation with county drug program offices. These efforts shall include, but not be limited to, the concentration of apprehension efforts in "problem" areas identified by local school authorities.

(c) Funds appropriated pursuant to this chapter may be used in part to support state-level development and statewide distribution of appropriate written and audio-visual aids for public awareness and training of school and law enforcement staff for handling drug-related problems and offenses. When existing aids can be identified, these aids may be utilized in lieu of the development of new aids.

13863. Criteria for selection of law enforcement agencies and school districts to receive Suppression of Drug Abuse in Schools Program funding shall be developed by the State Suppression of Drug Abuse in Schools Advisory Committee.

(a) The State Suppression of Drug Abuse in Schools Advisory Committee shall be composed of two police chiefs, two sheriffs, two district attorneys, one attorney primarily engaged in criminal defense, one representative of parent groups, one representative of the Department of Alcohol and Drug Programs, one county drug program administrator designated pursuant to Section 11962 of the

Health and Safety Code, a school peace officer, and a representative of community-based drug abuse programs, all of whom are appointed by the Governor. In addition, the Attorney General shall designate one member representing the Department of Justice and the Superintendent of Public Instruction shall designate four members, one representing the Department of Education, and three school site personnel. Staff services to the committee shall be provided by the Executive Director of the Office of Criminal Justice Planning. Committee members shall be reimbursed for actual expenses involved in the conduct of committee business. The committee shall review applications for grant awards and shall recommend approval for those applications which are deemed appropriate and are consistent with the guidelines and administrative procedures established pursuant to this section and this chapter.

(b) Each committee member shall be personally present to cast a vote or be counted toward a quorum. An appointed member of the committee unable to attend any meeting may designate a representative to attend such meetings on his or her behalf. Such a representative shall be accorded full privilege to address the committee on any matter under consideration but shall not have the right to vote on any motions entertained by the committee.

(c) The State Suppression of Drug Abuse in Schools Advisory Committee shall develop specific guidelines and administrative procedures for the Suppression of Drug Abuse in Schools Program.

(d) These guidelines and administrative procedures 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 and administrative procedures do not constitute rules, regulations, orders, or standards of general application.

(e) Administration of the overall program and the evaluation and monitoring of all grants made under this chapter shall be performed by the Office of Criminal Justice Planning.

(f) The Office of Criminal Justice Planning shall, to the extent possible, coordinate the administration of the Suppression of Drug Abuse in Schools Program with those of the Department of Alcohol and Drug Programs and the Department of Education established pursuant to Article 2 (commencing with Section 11965) of Chapter 2 of Part 3 of Division 10.5 of the Health and Safety Code.

(g) Local assistance grants made pursuant to this chapter shall not be subject to review pursuant to Section 14780 of the Government Code.

(h) Funds disbursed under this chapter shall not be used for the acquisition of equipment.

(i) Funds disbursed under this chapter shall not be used to purchase information or drugs.

(j) In the interest of maximizing the use of funds for program support and implementation, local law enforcement agencies and

school districts receiving funds under this chapter are expressly discouraged from using Suppression of Drug Abuse in Schools Program funds for personnel costs. Where it can be demonstrated that personnel costs are essential to the success of the program and that sufficient law enforcement and school personnel are not available to carry out the program, exceptions to this section may be requested through the Executive Director of the Office of Criminal Justice Planning.

(k) No more than 5 percent of the total amount of funds disbursed under this chapter shall be used for administrative costs.

SEC. 2. Section 1 of this act constitutes program guidelines for the purposes of control language in Items 8100-001-001 and 8100-101-001 of the Budget Act of 1983.

Notwithstanding any other provision of law, the sum of five hundred thousand dollars ($500,000) from the amount appropriated for the Suppression of Drug Abuse in Schools Program by Item 8100-101-001 of the Budget Act of 1983 is hereby appropriated to the Department of Alcohol and Drug Programs to support the School-Community Primary Prevention Program established by Chapter 1002 of the Statutes of 1981 and Chapter 1285 of the Statutes 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:

Drug abuse is pervading schools of all levels at an alarming rate. In order to effectively combat this spread of drug abuse it is necessary that this act take effect immediately.

CHAPTER 953

An act to amend Sections 13352 and 23109 of, and to add Section 23109.5 to, the Vehicle Code, relating to vehicle offenses.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found

to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. For the purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege or if the court does not grant probation.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(5) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of ability to respond in damages as defined in Section 16430.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(7) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if and as ordered by the court.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (8), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a

commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and such a conviction of an offense which, if committed in this state, would be a violation of Section 23153 is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of such a conviction.

SEC. 1.5. Section 13352 of the Vehicle Code is amended to read:

13352. (a) The department shall immediately suspend or revoke the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, or upon receipt of a report of a judge of the juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of Section 23152 or 23153 or subdivision (a) of Section 23109. For the purposes of this section, suspension or revocation shall be as follows:

(1) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23160, the privilege shall be suspended for a period of six months if the court orders the department to suspend the privilege or if the court does not grant probation.

(2) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23180, the privilege shall be suspended for a period of one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(3) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23152 punishable under Section 23165, the privilege shall be suspended for one year. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(4) Except as provided in Section 13352.5, upon a conviction or finding of a violation of Section 23153 punishable under Section 23185, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(5) Upon a conviction or finding of a violation of Section 23152

punishable under Section 23170, the privilege shall be revoked for a period of three years. The privilege shall not be reinstated until the person files proof of ability to respond in damages as defined in Section 16430.

(6) Upon a conviction or finding of a violation of Section 23153 punishable under Section 23190, the privilege shall be revoked for a period of five years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(7) Upon a conviction or finding of a violation of Section 23152 punishable under Section 23175, the privilege shall be revoked for a period of four years. The privilege shall not be reinstated until evidence satisfactory to the department establishes that no grounds exist which would authorize the refusal to issue a license and until the person gives proof of ability to respond in damages as defined in Section 16430.

(8) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (e) of that section, the privilege shall be suspended for a period of 90 days to six months, if and as ordered by the court.

(9) Upon a conviction or finding of a violation of subdivision (a) of Section 23109 punishable under subdivision (f) of that section, the privilege shall be suspended for a period of six months, if the court orders the department to suspend the privilege. The privilege shall not be reinstated until the person gives proof of ability to respond in damages as defined in Section 16430.

(b) For the purpose of paragraphs (2) to (9), inclusive, of subdivision (a), the finding of the juvenile court judge, the juvenile traffic hearing officer, or the referee of a juvenile court of a commission of a violation of Section 23152 or 23153 or subdivision (a) of Section 23109, as specified in subdivision (a) of this section, is a conviction.

(c) Each judge of a juvenile court, juvenile traffic hearing officer, or referee of a juvenile court shall immediately report the findings specified in subdivision (a) to the department.

(d) A conviction of an offense in any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada which, if committed in this state, would be a violation of Section 23152, is a conviction of Section 23152 for the purposes of this section, and such a conviction of an offense which, if committed in this state, would be a violation of Section 23153 is a conviction of Section 23153 for the purposes of this section. The department shall suspend or revoke the privilege to operate a motor vehicle pursuant to this section upon receiving notice of such a conviction.

SEC. 2. Section 23109 of the Vehicle Code is amended to read:

23109. (a) No person shall engage in any motor vehicle speed

contest on a highway. As used in this section, a motor vehicle speed contest includes a motor vehicle race against another vehicle, a clock, or other timing device. For purposes of this section, an event in which the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limits, is not a speed contest.

(b) No person shall aid or abet in any motor vehicle speed contest on any highway.

(c) No person shall engage in any motor vehicle exhibition of speed on a highway, and no person shall aid or abet in any motor vehicle exhibition of speed on any highway.

(d) No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a highway in any manner obstruct or place any barricade or obstruction or assist or participate in placing any barricade or obstruction upon any highway.

(e) Any person convicted of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than 24 hours nor more than 90 days or by a fine of not less than three hundred fifty-five dollars ($355) nor more than five hundred dollars ($500) or both that fine and imprisonment. The person's privilege to operate a motor vehicle shall be subject to suspension as provided in subdivision (a) of Section 13352. The person's privilege to operate a motor vehicle may be restricted for 90 days to six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(f) Any person convicted of a violation of subdivision (a) for an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than four days nor more than six months and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). Additionally, the Department of Motor Vehicles shall either suspend the person's privilege to operate a motor vehicle, as provided in subdivision (a) of Section 13352, or the person's privilege to operate a motor vehicle shall be restricted for six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to any person punishable under subdivision (f), in addition to the provisions of subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 48 hours

nor more than six months. The person's privilege to operate a motor vehicle shall also be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13352 or shall be restricted pursuant to subdivision (f).

(h) If any person is convicted of a violation of subdivision (a) and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(i) Any person who violates subdivision (b), (c), or (d) of this section shall upon conviction thereof be punished by imprisonment in the county jail for not more than 90 days or by fine of not more than two hundred fifty dollars ($250) or by both that fine and imprisonment

(j) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this section, the court shall clearly mark the restriction and the dates of the restriction on that person's driver's license and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The Department of Motor Vehicles shall place that restriction in the person's records in the Department of Motor Vehicles and enter the restriction on any license subsequently issued by the Department of Motor Vehicles to that person during the period of the restriction.

(k) The court may order that any person convicted under this section, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(*l*) This section shall be known and may be cited as the Louis Friend Memorial Act.

SEC. 2.5. Section 23109 of the Vehicle Code is amended to read:

23109. (a) No person shall engage in any motor vehicle speed contest on a highway. As used in this section, a motor vehicle speed contest includes a motor vehicle race against another vehicle, a clock, or other timing device. For purposes of this section, an event in which the time to cover a prescribed route of more than 20 miles is measured, but where the vehicle does not exceed the speed limits, is not a speed contest.

(b) No person shall aid or abet in any motor vehicle speed contest on any highway.

(c) No person shall engage in any motor vehicle exhibition of speed on a highway, and no person shall aid or abet in any motor vehicle exhibition of speed on any highway.

(d) No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a highway in any manner obstruct or place any barricade or obstruction or assist or participate in placing any barricade or obstruction upon any highway.

(e) Any person convicted of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than 24 hours nor more than 90 days or by a fine of not less than three

hundred fifty-five dollars ($355) nor more than five hundred dollars ($500) or both that fine and imprisonment. The person's privilege to operate a motor vehicle shall be subject to suspension as provided in subdivision (a) of Section 13352. The person's privilege to operate a motor vehicle may be restricted for 90 days to six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(f) Any person convicted of a violation of subdivision (a) for an offense which occurred within five years of the date of a prior offense which resulted in a conviction of a violation of subdivision (a) shall be punished by imprisonment in the county jail for not less than four days nor more than six months and by a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). Additionally, the Department of Motor Vehicles shall either suspend the person's privilege to operate a motor vehicle, as provided in subdivision (a) of Section 13352, or the person's privilege to operate a motor vehicle shall be restricted for six months to necessary travel to and from that person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving in that person's scope of employment. This subdivision does not interfere with the court's power to grant probation in a suitable case.

(g) If the court grants probation to any person punishable under subdivision (f), in addition to the provisions of subdivision (f) and any other terms and conditions imposed by the court, which may include a fine, the court shall impose as a condition of probation that the person be confined in the county jail for not less than 48 hours nor more than six months. The person's privilege to operate a motor vehicle shall also be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13352 or shall be restricted pursuant to subdivision (f).

(h) If any person is convicted of a violation of subdivision (a) and the vehicle used in the violation is registered to that person, the vehicle may be impounded at the registered owner's expense for not less than one day nor more than 30 days.

(i) Any person who violates subdivision (b), (c), or (d) of this section shall upon conviction thereof be punished by imprisonment in the county jail for not more than 90 days or by fine of not more than two hundred fifty dollars ($250) or by both that fine and imprisonment.

(j) If a person's privilege to operate a motor vehicle is restricted by a court pursuant to this section, the court shall clearly mark the restriction and the dates of the restriction on that person's driver's license and promptly notify the Department of Motor Vehicles of the terms of the restriction in a manner prescribed by the department. The Department of Motor Vehicles shall place that restriction in the

person's records in the Department of Motor Vehicles and enter the restriction on any license subsequently issued by the Department of Motor Vehicles to that person during the period of the restriction.

(k) The court may order that any person convicted under this section, who is to be punished by imprisonment in the county jail, be imprisoned on days other than days of regular employment of the person, as determined by the court.

(*l*) This section shall be known and may be cited as the Louis Friend Memorial Act.

SEC. 3. Section 23109.5 is added to the Vehicle Code, to read:

23109.5. (a) In any case charging a violation of subdivision (a) of Section 23109 and where the offense occurs within five years of one or more prior offenses which resulted in conviction of violation of subdivision (a) of Section 23109, the court shall not strike any prior conviction of those offenses for purposes of sentencing in order to avoid imposing, as part of the sentence or term of probation, the minimum time of imprisonment, as provided in subdivision (f) of Section 23109, or for purposes of avoiding revocation, suspension, or restriction of the privilege to operate a motor vehicle, as provided in Section 13352 or 23109.

(b) In any case charging a violation of subdivision (a) of Section 23109, the court shall obtain a copy of the driving record of the person charged from the Department of Motor Vehicles and may obtain any records from the Department of Justice or any other source to determine if one or more prior convictions of the person for violation of subdivision (a) of Section 23109 have occurred within five years of the charged offense.

SEC. 4. Section 1.5 of this bill incorporates amendments to Section 13352 of the Vehicle Code proposed by both this bill and AB 332. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 13352 of the Vehicle Code, and (3) this bill is enacted after AB 332, in which case Section 1 of this bill shall not become operative.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 23109 of the Vehicle Code proposed by both this bill and AB 369. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 23109 of the Vehicle Code, and (3) this bill is enacted after AB 369, in which case Section 2 of this bill 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 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 954

An act to add Section 13967.5 to the Government Code, to amend Sections 1206 and 1214 of, and to add Section 2085.5 to, the Penal Code, and to add Section 1752.82 to the Welfare and Institutions Code, relating to restitution fines.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 13967.5 is added to the Government Code, to read:

13967.5. (a) The restitution fine imposed pursuant to subdivision (a) of Section 13967 shall be payable to the clerk of the court, the judge if there be no clerk at the time of judgment, the probation officer, or any other person responsible for the collection of criminal fines. If the defendant is unable or otherwise fails to pay such fine in a felony case and there is an amount unpaid of one thousand dollars ($1,000) or more within 60 days after the imposition of sentence, or in a case in which probation is granted, within the period of probation, the clerk of the court, probation officer, or other person to whom the fine is to be paid shall forward to the Controller the abstract of judgment along with such information which may be relevant to the present and future location of the defendant and his or her assets, if any, and any verifiable amount which the defendant may have paid to the victim as a result of the crime.

(b) A restitution fine shall be deemed a debt of the defendant owing to the state for the purposes of Sections 12418 and 12419.5 of the Government Code, excepting any amounts the defendant has paid to the victim as a result of the crime. Upon request by the Controller, the district attorney of a county or the Attorney General may take any necessary action to recover amounts owing on a restitution fine. The amount of the recovery shall be increased by a sum sufficient to cover any costs incurred by any state or local agency in the administration of this section. The remedies provided by this subdivision are in addition to any other remedies provided by law for the enforcement of a judgment.

SEC. 2. Section 1206 of the Penal Code is amended to read:

1206. A judgment that a defendant pay a fine, including a restitution fine ordered pursuant to Section 13967 of the Government Code, with or without the alternative of imprisonment constitutes a lien in like manner as a judgment for money rendered in a civil action.

SEC. 3. Section 1214 of the Penal Code is amended to read:

1214. (a) If the judgment is for a fine with or without imprisonment, the judgment may be enforced in the manner provided for the enforcement of money judgments generally.

(b) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for a fine ordered pursuant to Section 13967 of the Government Code.

SEC. 4. Section 2085.5 is added to the Penal Code, to read:

2085.5. In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, the Director of Corrections may deduct a reasonable amount not to exceed 20 percent from the wages of a prisoner and shall transfer such amount, exclusive of the costs of administering the provisions of this section, which shall be retained by the director, to the State Board of Control for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on such fine. The sentencing court shall be provided a record of any such payments.

SEC. 5. Section 1752.82 is added to the Welfare and Institutions Code, to read:

1752.82. Whenever a person is committed to a California Youth Authority facility and such person owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, the director may deduct a reasonable amount not to exceed 20 percent from the wages of any such person and such amount so deducted, exclusive of the costs of administering the provisions of this section, which shall be retained by the director, shall be transferred to the State Board of Control for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on such fine. The committing court shall be provided a record of any such payments.

SEC. 6. This act is part of the Crime Victim Restitution Program of 1983 in that it establishes procedures to enforce the collection of restitution fines.

CHAPTER 955

An act to amend Section 6254 of the Government Code, relating to public records.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. Section 6254 of the Government Code is amended to read:

6254. Except as provided in Section 6254.7, nothing in this chapter shall be construed to require disclosure of records that are any of the following:

(a) Preliminary drafts, notes, or interagency or intra-agency

memoranda which are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding such records clearly outweighs the public interest in disclosure.

(b) Records pertaining to pending litigation to which the public agency is a party, or to claims made pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code, until such litigation or claim has been finally adjudicated or otherwise settled.

(c) Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy.

(d) Contained in or related to:

(1) Applications filed with any state agency responsible for the regulation or supervision of the issuance of securities or of financial institutions, including, but not limited to, banks, savings and loan associations, industrial loan companies, credit unions, and insurance companies.

(2) Examination, operating, or condition reports prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1).

(3) Preliminary drafts, notes, or interagency or intra-agency communications prepared by, on behalf of, or for the use of any state agency referred to in subdivision (1).

(4) Information received in confidence by any state agency referred to in subdivision (1).

(e) Geological and geophysical data, plant production data and similar information relating to utility systems development, or market or crop reports, which are obtained in confidence from any person.

(f) Records of complaints to or investigations conducted by, or records of intelligence information or security procedures of, the office of the Attorney General and the Department of Justice, and any state or local police agency, or any such investigatory or security files compiled by any other state or local police agency, or any such investigatory or security files compiled by any other state or local agency for correctional, law enforcement or licensing purposes, except that state and local law enforcement agencies shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, and location of the incident, all diagrams, statements of the parties involved in the incident, the statements of all witnesses, other than confidential informants, to the victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime of violence as defined by subdivision (b) of Section 13960, unless the disclosure would endanger the safety of a witness or other person involved in

the investigation, or unless disclosure would endanger the successful completion of the investigation or a related investigation; provided, however, that nothing herein shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigating officer.

Other provisions of this subdivision notwithstanding, state and local law enforcement agencies shall make public the following information, except to the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation:

(1) The full name, current address, and occupation of every individual arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the time and date of arrest, the time and date of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds; and

(2) The time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including, to the extent such information regarding crimes alleged or committed or any other incident investigated is recorded, the time, date and location of occurrence, the time and date of the report, the name, age and current address of the victim, except that the address of the victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed, the factual circumstances surrounding the crime or incident, and a general description of any injuries, property or weapons involved. The name of a victim of any crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Section 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code may be deleted at the request of the victim, or the victim's parent or guardian if the victim is a minor, in making the report of such crime, or of any crime or incident accompanying such crime, available to the public in compliance with the requirements of this paragraph.

(g) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination, except as provided for in Chapter 3 (commencing with Section 99150) of Part 65 of the Education Code.

(h) The contents of real estate appraisals, engineering or feasibility estimates and evaluations made for or by the state or local agency relative to the acquisition of property, or to prospective public supply and construction contracts, until such time as all of the

property has been acquired or all of the contract agreement obtained, provided however, the law of eminent domain shall not be affected by this provision.

(i) Information required from any taxpayer in connection with the collection of local taxes which is received in confidence and the disclosure of the information to other persons would result in unfair competitive disadvantage to the person supplying such information.

(j) Library circulation records kept for the purpose of identifying the borrower of items available in libraries, and library and museum materials made or acquired and presented solely for reference or exhibition purposes. The exemption in this subdivision shall not apply to records of fines imposed on such borrowers.

(k) Records the disclosure of which is exempted or prohibited pursuant to provisions of federal or state law, including, but not limited to, provisions of the Evidence Code relating to privilege.

(*l*) Correspondence of and to the Governor or employees of the Governor's office or in the custody of or maintained by the Governor's legal affairs secretary, provided public records shall not be transferred to the custody of the Governor's legal affairs secretary to evade the disclosure provisions of this chapter.

(m) In the custody or maintained by the Legislative Counsel.

(n) Statements of personal worth or personal financial data required by a licensing agency and filed by an applicant with such licensing agency to establish his personal qualification for the license, certificate, or permit applied for.

(o) Financial data contained in applications for financing under Division 27 (commencing with Section 44500) of the Health and Safety Code, where an authorized officer of the California Pollution Control Financing Authority determines that disclosure of such financial data would be competitively injurious to the applicant and such data is required in order to obtain guarantees from the United States Small Business Administration. The California Pollution Control Financing Authority shall adopt rules for review of individual requests for confidentiality under this section and for making available to the public those portions of an application which are subject to disclosure under this chapter.

(p) Records of state agencies related to activities governed by Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1, Chapter 10.5 (commencing with Section 3525) of Division 4 of Title 1, and Chapter 12 (commencing with Section 3560) of Division 4 of Title 1, which reveal a state agency's deliberative processes, impressions, evaluations, opinions, recommendations, meeting minutes, research, work products, theories, or strategy, or which provide instruction, advice, or training to employees who do not have full collective bargaining and representation rights under the above chapters. Nothing in this subdivision shall be construed to limit the disclosure duties of a state agency with respect to any other records relating to the activities governed by the employee relations acts referred to in this subdivision.

(q) Records of state agencies related to activities governed by Articles 2.6, 2.8, and 2.91 of Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, which reveal the special negotiator's deliberative processes, impressions, opinions, recommendations, meeting minutes, research, work product, theories, or strategy, or which provide instruction, advice, or training to employees. All or portions of contracts entered into pursuant to these articles may be exempted from the provisions of this chapter as specified by the terms of each contract.

(r) Records of Native American graves, cemeteries, and sacred places maintained by the Native American Heritage Commission.

Nothing in this section is to be construed as preventing any agency from opening its records concerning the administration of the agency to public inspection, unless disclosure is otherwise prohibited by law.

CHAPTER 956

An act to amend Sections 2762, 2806, 5059, 6052, and 6257 of, and to repeal Chapter 8.5 (commencing with Section 6125) of Title 7 of Part 3 of the Penal Code, relating to prisons and prisoners, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. (a) Notwithstanding any other provision of law, the Department of Corrections shall immediately construct or establish, or both, minimum and medium security, work-based facilities with a capacity of 2,000 inmates in the following manner:

(1) One thousand inmates who shall be employed by the Departments of Forestry, Transportation, Water Resources, and Parks and Recreation in conservation and maintenance camps. From funds appropriated to it for such purposes, the Department of Corrections shall be responsible for the construction and establishment of such camps and shall be responsible for the housing and custody of camp inmates. Each named department shall endeavor to house 250 inmates but if any one department houses more than its quota, up to 500 inmates, that number may be deducted from the quota of any one of the remaining departments.

(2) One thousand inmates who shall be housed in an abandoned industrial plant or plants to be located on sites consistent with the provisions of Section 3 of Chapter 1122 of the Statutes of 1980.

(b) To the extent feasible, the Department of Corrections shall develop each facility authorized by this section in a manner to

provide all inmates the opportunity to work full time for the benefit of the state.

(c) The Department of Corrections shall not, pursuant to paragraph (1) of subdivision (a), house prisoners in camps previously constructed without prior approval of the Joint Legislative Committee on Prison Construction and Operation.

SEC. 1.5. Section 2762 of the Penal Code is amended to read:

2762. The Director of Corrections shall fix a daily rate to be expended for convict labor, and when so fixed, the Department of Transportation shall monthly set aside funds to the director to pay for this labor from funds appropriated in the Budget Act for this purpose, and where no funds are available to the Department of Transportation the director may set aside the department's own funds to pay for this labor from funds appropriated in the Budget Act for this purpose. The Department of Corrections shall set up an account for each convict which shall be credited monthly with an amount computed by multiplying the daily rate by the number of days such convict actually performed labor during the month. Such account shall be debited monthly with the convict's proportionate share of expenses of camp maintenance, including the expenses for food, medicine, medical attendance, clerical and accounting personnel, and the expenses necessary to maintain care and welfare facilities such as camp hospital for first aid, barbershop and cobbler shop, and the convict's personal expenses covering his drawings from the commissary for clothing, toilet articles, tobacco, candy, and other personal items. The charge for camp maintenance may be made at a standard rate determined by the department maintaining the camps to be adequate to cover expenses and shall be adjusted periodically at the discretion of the department as needs of the camp require. No charge shall be made against such account for the costs of transporting prisoners to and from prison and camp or for the expense of guarding prisoners, which items shall be paid by the Department of Corrections from appropriations made for the support of the department. The director, by regulation, may fix the maximum amount, over and above all deductions, that a convict may receive. The Department of Corrections, in computing the debits to be made to the convict's accounts, may add not to exceed 10 percent on all items.

SEC. 2. Section 2806 of the Penal Code is amended to read:

2806. There is hereby constituted a permanent revolving fund in the sum of not less than seven hundred thirty thousand dollars ($730,000), to be known as the Prison Industries Revolving Fund, and to be used to meet the expenses necessary in the purchasing of materials and equipment, salaries, construction and cost of administration of the prison industries program. The fund may also be used to refund deposits either erroneously made or made in cases where delivery of products cannot be consummated. The fund shall at all times contain the amount of at least seven hundred thirty thousand dollars ($730,000), either in cash or in receivables,

consisting of raw materials, finished or unfinished products, inventory at cost, equipment, or any combination of the above. Money received from the rendering of services or the sale of products in the prisons and institutions under the jurisdiction of the board shall be paid to the State Treasurer monthly and shall be credited to the fund. At any time that the authority and the Director of Finance jointly determine that the balance in said revolving fund is greater than is necessary to carry out the purposes of the authority, they shall so inform the Controller and request a transfer of the unneeded balance from the revolving fund to the General Fund of the State of California. The Controller is authorized to transfer balances upon request. Funds deposited in the revolving fund are not subject to annual appropriation by the Legislature and may be used without a time limit by the authority.

The Prison Industries Revolving Fund is not subject to the provisions of Articles 2 (commencing with Section 13320) and 3 (commencing with Section 13335) of Chapter 3 of Part 3 of Division 3 of Title 2 of the Government Code.

The revolving fund created by Section 2714 known as the Correctional Industries Revolving Fund is abolished, and the Controller shall transfer the balance in that revolving fund to the Prison Industries Revolving Fund. Any major capital outlay project undertaken by the authority shall be subject to review by the Public Works Board pursuant to the provisions of Part 10.5 (commencing with Section 15752) of Division 3 of Title 2 of the Government Code.

SEC. 2.5. Section 5059 of the Penal Code is amended to read:

5059. This title shall not affect the powers or jurisdiction of the Department of Transportation as to road camps pursuant to Article 4, Chapter 5, Title 1, Part 3 of this code.

SEC. 3. Section 6052 of the Penal Code is amended to read:

6052. (a) On January 1, 1945 (hereinafter referred to as the effective date), the provisions of Article VII and the term "state civil service" shall include all officers and employees who on the effective date are within one of the following classes:

Class 1. Officers and employees (i) holding positions on July 1, 1944, exempt from civil service under Section 4 of Article VII of the Constitution, (ii) either continuously for six months prior to January 1, 1945, in the service of the Board of Prison Directors, the wardens, the department, the director, or any of them or, if not in such service continuously, the lack of continuity was due to service for which a right to return to the position vacated is granted under the State Civil Service Act, and (iii) holding a position subject to Section 6051 on the effective date.

Class 2. Officers and employees (i) holding positions on July 1, 1944, exempt from civil service under Section 4 of Article VII of the Constitution, (ii) on the effective date absent due to service for which a right to return is granted by the State Civil Service Act, and (iii) otherwise continuously for six months prior to January 1, 1945, employed in the service of the Board of Prison Directors, the

wardens, the department or any of them.

(b) Such personnel shall be included in the state civil service in permanent positions subject to a probationary period pursuant to Article 6 (commencing with Section 19170) of Chapter 6 of Part 2 of Division 5 of the Government Code, the probationary period to begin with respect to class 2 personnel from the date they resume their position.

(c) An officer or employee, directly or indirectly, entitled to or having permanent status under this section, who is displaced by one having a right of return shall be accorded the same rights to elect demotion in lieu of layoff granted by Sections 19530 to 19541, inclusive, of the Government Code as though he had had permanent status at all times in any previous position.

(d) The State Civil Service Act shall govern with respect to conflicting claims to the same position after the effective date, the same as though the position were at all times subject to civil service.

(e) After the effective date the director shall be the appointing authority for all positions not otherwise provided for and, pursuant to the State Civil Service Act, may employ and fix the compensation for the personnel for such positions.

(f) Appointees of the Governor and persons holding positions designated pursuant to Section 4 of Article VII (for the purposes of which section the Board of Prison Terms, the Youth Authority and the Director of Corrections shall be considered separate boards, commissions and officers) shall remain exempt from civil service.

(g) "Right of return" and "right to return" as used in this section refer to rights expressly provided by the State Civil Service Act to return to a position after military service in time of war or during a period of preparation for national defense or service as a seaman as described in Section 19393 of the Government Code, and refers to rights which may hereafter be granted expressly by the State Civil Service Act to return to a position after service to the nation.

SEC. 4. Chapter 8.5 (commencing with Section 6125) of Title 7 of Part 3 of the Penal Code is repealed.

SEC. 5. Section 6257 of the Penal Code is amended to read:

6257. The Director of Corrections is authorized to conduct in at least one but not more than three community correctional centers pilot demonstration industrial enterprises to provide appropriate inmate prerelease work training. Inmates assigned to such industrial enterprises may be paid wages prevailing in comparable industries in this state from the Prison Industries Revolving Fund. The Prison Industry Authority shall determine the rate at which participating inmates shall contribute from their wages, after taxes, to each of the following: (a) room and board; (b) the California Victim Indemnity Fund; (c) family support; (d) a personal release savings account; and (e) ongoing personal expenses. Any such industrial enterprise is subject to the provisions of Chapter 3.5 (commencing with Section 5085) of Title 7 of Part 3.

The director shall report to the Legislature as to the effect of the

enterprises not later than January 15, 1985.

This section shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Immediate expansion of existing prison facilities by the swiftest means possible is necessary to relieve the state prison system from severe overcrowding and to maintain public safety and security. Therefore, this act shall go into effect immediately.

CHAPTER 957

An act relating to prisons, declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 20, 1983]

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

SECTION 1. (a) Notwithstanding any other provision of law, the Department of Corrections may construct or establish, or both, minimum and medium security, work-based prisons with a capacity of 3,600 prisoners in the following manner:

(1) Two, 1,200-bed facilities on the grounds of the present California Medical Facility at Vacaville.

(2) One, 1,200-bed minimum and medium (levels I and II) security facility on state-owned property in Ione, or at an abandoned military facility other than Camp Roberts.

(b) No prison authorized by this section shall be larger than 1,200 beds and each shall be functionally separate from any other existing or planned prison facilities. Each facility authorized by this section shall consist of at least two major living units, each containing no more than 600 beds.

(c) The Department of Corrections shall develop each facility authorized by this section in a manner to provide all prisoners incarcerated therein the opportunity to work full time for the benefit of the state.

(d) The facilities authorized by the section shall be constructed, to the extent feasible, using the labor of prisoners.

(e) Any negative impact on community water, sewer, and housing created by a prison authorized in this section shall be mitigated by the department during construction of the facility.

SEC. 2. Notwithstanding any other provision of law, funds shall not be allocated for the occupancy of the facilities authorized by this

act at Vacaville until the Department of Corrections has completed the final environmental impact reports and preliminary plans for 500 beds of camp capacity described in Section 1 of Assembly Bill 436 of the 1983–84 Regular Session of the Legislature and funds shall not be allocated for the occupancy of the facility authorized by this act at Ione or at an abandoned military facility until the Department of Corrections has completed the final environmental impact reports and preliminary plans for the remaining 500 beds of camp capacity described in Section 1 of Assembly Bill 436.

SEC. 3. This act shall not become operative unless and until Assembly Bill 436 is chaptered and becomes operative.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Immediate expansion of existing prison facilities by the swiftest means possible is necessary to relieve the state prison system from severe overcrowding and to maintain public safety and security.

CHAPTER 958

An act to amend Sections 2803 and 7003 of, and to add Sections 2046.7, 2816, 2817, 7004, 7006, and 7009 to the Penal Code, to add Section 21080.01 to the Public Resources Code, and to amend Section 13 of Chapter 540 of the Statutes of 1981, and to amend Section 5 of Chapter 1548 of the Statutes of 1982, relating to prison construction, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 20, 1983.]

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

SECTION 1. Section 2046.7 is added to the Penal Code, to read:

2046.7. The Department of Corrections shall vacate the California Men's Colony West Facility by January 1, 1989.

SEC. 1.5. Section 2803 of the Penal Code is amended to read:

2803. The Director of Corrections shall be the chairman of the board. The chairman shall be the administrative head of the board and shall exercise all duties and functions necessary to insure that the responsibilities of the board are successfully discharged. The board shall meet regularly at least four times during each fiscal year, and shall hold extra meetings on the call of the chairman or a majority of the board. Six members of the board, including the chairman, shall constitute a quorum. The vote of a majority of the members in office is necessary for the transaction of the business of the board.

SEC. 2. Section 2816 is added to the Penal Code, to read:

2816. With the approval of the Department of Finance, there shall be transferred to, or deposited in, the Prison Industries Revolving Fund for purposes authorized by this section, money appropriated from any source including sources other than state appropriations.

Notwithstanding subdivision (i) of Section 2808, the chairman, in consultation with the board, may order any authorized public works project involving construction, renovation, or repair of prison facilities to be performed by inmate labor when the total expenditure does not exceed two hundred thousand dollars ($200,000). Projects entailing expenditure of greater than two hundred thousand dollars ($200,000) shall be reviewed and approved by the board.

Money so transferred or deposited shall be available for expenditure by the department for the purposes for which appropriated, contributed or made available, without regard to fiscal years and irrespective of the provisions of Sections 13340 and 16304 of the Government Code. Money transferred or deposited pursuant to this section shall be used only for purposes authorized in this section.

SEC. 2.5. Section 2817 is added to the Penal Code, to read:

2817. The Inmate Construction Revolving Account is hereby created in the Prison Industries Revolving Fund, established in Section 2806, to receive funds transferred or deposited for the purposes described in Section 2816.

SEC. 3. Section 7003 of the Penal Code is amended to read:

7003. The department shall submit completed preliminary plans, proposed staffing patterns and proposed inmate work programs for all facilities included within its master plan, as defined in subdivision (b) of Section 7000, as soon as is practicable, but no later than 30 days prior to submission to the Public Works Board, to the Joint Legislative Prison Committee and the fiscal committees of the Senate and Assembly for review and approval. If each committee does not, by majority vote of the committee membership, approve the submittal, the Public Works Board shall not act upon the affected plans. If a committee fails to take any action with respect to the submitted plans within 30 days after submittal, such inaction shall be deemed to be approval for purposes of this section.

SEC. 4. Section 7004 is added to the Penal Code, to read:

7004. (a) Notwithstanding the guidelines adopted by the Secretary of the Resources Agency pursuant to Section 21083 of, and notwithstanding Section 21092 of, the Public Resources Code, there shall be no review period for a notice of preparation or response time for responsible agencies with respect to prison projects authorized by the Legislature. In lieu of such review and response periods, the department shall consult with responsible agencies during the preparation of a draft environmental impact report.

(b) Notwithstanding the guidelines adopted by the Secretary of the Resources Agency pursuant to Section 21083 of, and

notwithstanding Section 21092, of the Public Resources Code, the review period for the draft environmental impact report shall not exceed 30 days unless a shorter review period is authorized by the Office of Planning and Research with respect to prison projects authorized by the Legislature.

(c) This section shall apply only to the proposed prison facilities at Avenal, authorized by Section 9 of the act which enacted this section, Ione, authorized by Assembly Bill 1841 and the conservation and maintenance camps authorized by Section 1 of Assembly Bill 436.

(d) An appeal from any action or proceeding to attack, review, set aside, void, or annul acts or decisions of the department respecting projects subject to this section on the grounds of noncompliance with Division 13 (commencing with Section 21000) of the Public Resources Code may be taken in the Supreme Court.

SEC. 5. Section 7006 is added to the Penal Code, to read:

7006. The Department of the Youth Authority is authorized to transfer to the Department of Corrections title to any property of the Preston School for Industry at Ione not currently being used by the Department of the Youth Authority.

SEC. 6. Section 7009 is added to the Penal Code to read:

7009. (a) The Director of Corrections and the Legislative Analyst shall investigate the advisability of using lease or lease-purchase arrangements to finance the acquisition, construction, and the underwriting of prison facilities authorized by the Legislature. For purposes of this section, the director may solicit bids for any lease or lease-purchase in a newspaper of general circulation in the county in which the authorized project is located.

(b) The director and the Legislative Analyst shall report their findings and recommendations relative to lease or lease-purchase arrangements to the Legislature no later than January 1, 1984.

SEC. 6.5. Section 21080.01 is added to the Public Resources Code, to read:

21080.01. This division shall not apply to any activity or approval necessary for the reopening and operation of the California Men's Colony West Facility in San Luis Obispo County.

SEC. 7. Section 13 of Chapter 540 of the Statutes of 1981 is amended to read:

Sec. 13. The Department of Corrections is authorized to:

(a) Construct and establish four work-based medium security institutions, together with a service facility of lesser security with a capacity not in excess of 200 inmates, in San Diego County.

(b) Plan, including architectural programming, master planning and schematics, security institutions and services facilities at sites which the department may designate using funds appropriated by subdivision (b) of Item 524-301-001 of the Budget Act of 1981 and Chapter 1135 of the Statutes of 1979 notwithstanding any other provision of law.

(c) The authorization to construct any prison or service facility pursuant to this section shall not become effective unless the

standards specified below in this subdivision are met or unless the Joint Legislative Prison Committee finds that such standards are not workable:

(1) The total construction cost of the prison complex, including any consultant or architectural fees, and excluding any off-site utilities and equipment costs, does not exceed fifty thousand dollars ($50,000) per cell.

(2) The inmate to staff ratio of the complex does not fall below four to one.

(d) The Department of Corrections shall hold a public hearing in the vicinity of Otay Mesa to hear local concerns over the addition of a fourth institution to the prison complex.

(e) The Department of Corrections shall, in submitting the preliminary plans for the facility for review and approval of the Joint Legislative Prison Committee, detail the proposed work program for the complex including plans to expand industrial operations to provide full work opportunities for all inmates if the facility is double-celled.

SEC. 8. Notwithstanding any other provision of law, funds for the occupancy of a prison in San Diego County shall not be allocated until a site has been designated and approved pursuant to Section 1 of Chapter 1549 of the Statutes of 1982.

SEC. 8.5. Section 5 of Chapter 1548 of the Statutes of 1982 is amended to read:

Sec. 5. Water to be supplied to the complex to be constructed at Adelanto shall be purchased, once the complex has been completed and occupied, from the Mojave Water Agency, which shall be required to sell water to that complex from that agency's allocation from the State Water Project. The State of California shall take all financial responsibility for constructing facilities needed to transport and treat the water from the State Water Project to the complex. The Department of Corrections shall make all necessary water conservation steps at the Adelanto facility to insure that the water usage at the facility is less than the average per inmate water usage in the prison system.

SEC. 9. Notwithstanding any other provision of law, the Department of Corrections is authorized to construct and establish a 3,000-bed, minimum security (Level 1 and Level 2), work-based prison in the City of Avenal or within five miles of the city limits of Avenal in Kings County.

SEC. 9.5. Notwithstanding any other provision of law, the Department of Corrections is authorized to purchase existing facilities in Baker for the establishment of a minimum/medium security institution.

SEC. 10. There is hereby appropriated from the New Prison Construction Fund to the Department of Corrections for capital outlay the sum of one hundred sixty-nine million three hundred seventy thousand dollars ($169,370,000) to be allocated as follows:

(a) Correctional Training Facility		1,770,000
Schedule:		
(1) Sewage and Water improvements: preliminary plans and working drawings	220,000	
(2) Security improvements: preliminary plans, working drawings and construction..	1,550,000	
(b) Deuel Vocational Institution: Security improvements: preliminary plans, working drawings and construction.....		1,400,000
(c) California Men's Colony.....		2,850,000
Schedule:		
(1) Sewage improvements.....	450,000	
(2) Construction	2,400,000	
(d) California Medical Facility		77,500,000
Schedule:		
(1) One 1200-bed (Levels I and II) facility: preliminary plans, working drawings	3,000,000	
(2) One 1200-bed (Level III) facility: preliminary plans, working drawings, and construction	67,500,000	
(3) Long lead items ..	7,000,000	
(e) On state-owned property in Ione or within 5 miles of the city limits of Ione or at an abandoned military facility other than Camp Roberts: one 1200-bed (Levels I and II) facility		54,000,000
(f) In the City of Avenal or within the city limits of Avenal in Kings County		18,500,000
Schedule:		
(1) One 3000-bed (Levels I and II) facility: studies,		

	master plan, preliminary plans, and working drawings	15,000,000
	(2) Long lead items ..	3,500,000
(g)	The conservation and maintenance camps authorized pursuant to Assembly Bill 436: preliminary plans, working drawings, and construction.....	11,500,000
(h)	The purchase of existing facilities in Baker for the establishment of a minimum/medium security institution	1,850,000

SEC. 11. Notwithstanding the provisions of Section 10, the Department of Corrections shall not expend more than twenty-five million dollars ($25,000,000) of the funds appropriated in Section 10 until the department prepares and presents to the Legislature a detailed accounting of all prior expenditures from the New Prison Construction Fund. Such accounting shall, at a minimum, contain a breakdown of expenditures on a project-by-project basis and shall include a full description and explanation of all expenditures for consultant and architectural fees.

SEC. 12. If any provision of this act or the application thereof to any person or circumstances is held invalid, such in validity shall not affect other provisions or applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are severable.

SEC. 13. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Presently the state prisons are operating at 130 per cent of capacity and the prison population is still increasing. It is essential to the public safety that construction of new prisons proceed as expeditiously as possible to relieve prison overcrowding, and it is the intent of the Legislature that, consistent with the need for expeditious action, that the Department of Corrections utilize phased contracting, multiple and phase contracts, early procurement of long lead time items, and other technologies to accelerate authorized construction projects, thus, it is necessary that this act go into immediate effect.

CHAPTER 959

An act to add Sections 17202.7 and 24343.9 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. The Legislature finds and declares that:

(a) The current system of taxation in California which is based on annual accounting principles unduly penalizes small businesses that incur large initial losses but which have potential for future growth and job generation

(b) In order to create a more favorable environment for small business in California and, in particular, to encourage the development of new small businesses, it is the intent of the Legislature in enacting this act to allow the carryover of net operating losses incurred by a new small business in the first two years of operation.

SEC. 2. Section 17202.7 is added to the Revenue and Taxation Code, to read:

17202.7. (a) There shall be allowed as a deduction for the taxable year an amount equal to the net operating loss carryovers to that year.

(b) For purposes of this part, the term "net operating loss deduction" means the deduction permitted by this section resulting from a loss by a taxpayer engaged in a new small business. For purposes of this section, the definition of "small business" established by the Department of General Services shall apply. A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business, which shall begin with the first month immediately following the last month startup expenditures may no longer be treated as deferred expenses pursuant to Section 17267.

(c) A net operating loss for any taxable year beginning after December 31, 1983, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss. A net operating loss may be carried over only by the individual or legal entity incurring the net operating loss.

(d) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which such loss may be carried. The portion of the loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of the loss over the sum of the taxable income for each of the prior taxable years to which such loss may be carried.

(e) For purposes of this section, the term "net operating loss"

means the excess of the deductions attributable to the business which are allowed by this chapter over the total of the taxpayer's gross income. That excess shall be computed with the following modifications:

(1) The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets.

(2) Paragraphs (2) and (3) of subdivision (a) of Section 18162.5 shall not apply with respect to gains or losses from the sale or exchange of capital assets.

(f) The total amount of net operating loss a new small business may carry over pursuant to this section beginning on or after January 1, 1984, and thereafter shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all taxable years.

(g) The term "new small business" does not include any business or corporation which, for tax purposes only, liquidates its assets, in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the business or corporation under a new name.

(h) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984.

SEC. 3. Section 24343.9 is added to the Revenue and Taxation Code, to read

24343.9. (a) There shall be allowed as a deduction for the income year an amount equal to the net operating loss carryovers to that year.

(b) For purposes of this part, the term "net operating loss deduction" means the deduction permitted by this section resulting from a loss by a taxpayer engaged in a new small business. For purposes of this section, the definition of "small business" established by the Department of General Services shall apply. A net operating loss deduction by a taxpayer shall be allowed only for losses occurring within the first 24 months of active operation of the small business, which shall begin with the first month immediately following the last month startup expenditures may no longer be treated as deferred expenses pursuant to Section 24414.

(c) A net operating loss for any income year beginning after December 31, 1983, shall be a net operating loss carryover to each of the 15 income years following the income year of the loss. A net operating loss may be carried over only by the corporation incurring the net operating loss.

(d) The entire amount of the net operating loss for any income year shall be carried to the earliest of the income years to which such loss may be carried. The portion of such loss which shall be carried to each of the other income years shall be the excess, if any, of the amount of such loss over the sum of the taxable income for each of the prior income years to which the loss may be carried.

(e) For purposes of this section, the term "net operating loss" means the excess of the deductions attributable to the business which

are allowed by this chapter over the total of the taxpayer's gross income.

(f) The total amount of net operating loss a new small business may carry over pursuant to this section beginning on or after January 1, 1984, and thereafter shall not exceed an aggregate of one hundred thousand dollars ($100,000) for all income years.

(g) The term "new small business" does not include any of the following:

(1) A corporation which, for tax purposes only, liquidates its assets in whole or in part, in anticipation of an operating loss and then subsequently reorganizes that portion of the corporation under a new name.

(2) A corporation which is part of a controlled group, as defined by Section 1563 of the Internal Revenue Code. However, for purposes of this paragraph, where the term "80 percent" is used in Section 1563 of the Internal Revenue Code, the term "50 percent" shall be substituted in lieu of "80 percent."

(3) A corporation which is controlled by another corporation, and whose affiliation with the controlling corporation does not constitute a small business, as defined in subdivision (b). For purposes of this paragraph, "controlled" means the ownership of stock possessing more than 50 percent of the total combined voting power of all classes of stock entitled to vote.

(h) No net operating loss deduction shall be allowed for any loss which occurs prior to January 1, 1984.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 960

An act to amend Section 214.11 of the Revenue and Taxation Code, and to amend Sections 14087.6, 14087.8, 14105.3, and 14123.2 of, and to add Sections 14115.4 and 14165.10 to, the Welfare and Institutions Code, relating to public welfare.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 214.11 of the Revenue and Taxation Code is amended to read:

214.11. For purposes of Section 214, property owned and operated by a nonprofit organization, otherwise qualifying for exemption under Section 214, shall be deemed to be exclusively used for hospital purposes so long as the property is exclusively used to meet the needs of hospitals which qualify for exemption from property taxation under Section 214 or any other law of the United

States or this state. As used in this section, "needs of hospitals" includes any use incidental to, and reasonably necessary for, the functioning of a full hospital operation.

SEC. 2. The Controller shall report to the Legislature on the amount of claims made by county auditors under Section 16113 of the Government Code for compensation for property tax revenues lost by reason of the classification or exemption of property by this act. The report shall be made on or before the first day of October next following the operative date of this act for claims made under subdivision (a) of Section 16113 and shall be made on or before the first day of December next following the operative date of this act for claims made under subdivision (b) of Section 16113. The report shall be made in order that the Legislature may appropriate funds for the subventions required by Section 2229 of the Revenue and Taxation Code.

SEC. 2. Section 14087.6 of the Welfare and Institutions Code is amended to read:

14087.6. A county which has contracted for the provision of services pursuant to this article may provide the services directly to recipients, or arrange for any or all of the services to be provided by subcontracting with primary care providers, health maintenance organizations, insurance carriers, or other entities or individuals. The subcontracts may utilize a prospectively negotiated reimbursement rate, fee-for-service, retainer, capitation, or other basis for payment. The rate of payment established under the contract shall not exceed the total per capita amount which the department estimates would be payable for all services and requirements covered under the contract if all such services and requirements were to be furnished Medi-Cal beneficiaries under the Medi-Cal fee-for-service program.

Counties which are responsible for providing health care under this chapter shall make efforts to utilize existing health service resources where these resources can be estimated by the county to result in lower total long-term costs and accessibility quality care to persons served under this chapter. The granting of a certificate of need pursuant to the criteria set forth in Section 437.12 of the Health and Safety Code or a certificate of exemption pursuant to the criteria set forth in Section 437.11 of the Health and Safety Code shall satisfy the intent of this provision.

SEC. 3. Section 14087.8 of the Welfare and Institutions Code is amended to read:

14087.8. When the department has entered into a contract with a county pursuant to this article, the department shall, at a minimum, through a method independent of any agency of the county, monitor the level and quality of services provided in a county, as well as a county's expenditures pursuant to the contract, and shall ensure conformity with federal law.

SEC. 4. Section 14105.3 of the Welfare and Institutions Code is amended to read:

14105.3. (a) The department is considered to be the purchaser,

but not the dispenser or distributor, of prescribed drugs under the Medi-Cal program for the purpose of enabling the department to obtain from one or more manufacturers of prescribed drugs the most favorable price for such drugs furnished by one or more manufacturer, based upon the large quantity of such drugs purchased under the Medi-Cal program, and to enable the department, notwithstanding any other provision of California law, to obtain from such manufacturers discounts, rebates, or refunds based on such quantities purchased under said program, insofar as may be permissible under federal law. Nothing in this section shall interfere with usual and customary distribution practices in the drug industry.

(b) The department may enter into exclusive or nonexclusive contracts on a bid or negotiated basis with manufacturers, distributors, dispensers, or suppliers of drugs, appliances, durable medical equipment, medical supplies, and other product-type health care services and laboratories for the purpose of obtaining the most favorable prices to the state and to assure adequate quality of the product or service. This subdivision shall not apply to pharmacies licensed pursuant to Section 4080 of the Business and Professions Code.

(c) The department is hereby specifically authorized to contract with one or more manufacturers of each multisource prescribed product or supplier of outpatient clinical laboratory services on a bid or nonbid basis. Contracts for outpatient clinical laboratory services shall require that the contractor be a clinical laboratory licensed or certified by the State of California. Nothing in this section shall be construed as prohibiting the department from contracting with less than all manufacturers or clinical laboratories including just one manufacturer or clinical laboratory, on a bid or nonbid basis.

(d) Prior to entering into any contract under this section, the department shall submit a report to the Legislature demonstrating the cost-effectiveness of the contract.

(e) In order to achieve maximum cost savings the Legislature hereby determines that an expedited contract process for contracts under this section is necessary. Therefore contracts under this section may be on a nonbid basis and shall be exempt from the provisions of Chapter 6 (commencing with Section 14780), Part 5.5, Division 3 of the Government Code. Contracts shall have no force and effect unless approved by the Department of Finance.

SEC. 5. Section 14115.4 is added to the Welfare and Institutions Code, to read:

14115.4. If the Budget Act should in any budget year restrict payment for pathology services under the Medi-Cal program to only the provider who actually performs those services, this restriction shall not prohibit any of the following:

(a) Reimbursement of a hospital for pathology services performed by an outside reference laboratory for hospital patients.

(b) Reimbursement of a clinical laboratory for performance of

pathology services that are referred to another clinical laboratory.

(c) Reimbursement of a clinical laboratory when pathology services are performed at a different testing location owned and operated by the same clinical laboratory.

Services provided pursuant to subdivision (a), (b), or (c) shall be reimbursed in accordance with the rules and regulations of the department.

SEC. 6. Section 14123.2 of the Welfare and Institutions Code is amended to read:

14123.2. Any provider or person that presents or causes to be presented a claim for services to an officer, employee, or agent of the State of California, or of any department or agency thereof as defined in appropriate state law that the director determines is for a medical or other item or service that the person knows or has reason to know; (a) was not provided as claimed, or (b) payment for which may not be made under the program in the following instances: (1) when the person or provider has been suspended from participation in the program, or (2) when the department determines that the services or items claimed are substantially in excess of the needs of individuals or are of a quality that fails to meet professionally recognized standards of health care, or (3) when the department determines that a person has demonstrated a pattern of abusive overbilling of the program; or (c) is submitted in violation of an agreement between the person and the state, shall be subject in addition to any other penalties that may be prescribed by law, to a civil money penalty of not more than three times the amount claimed for each such item or service.

The director shall make the determination to assess civil money penalties and shall be responsible for the collection of the penalty amounts.

The provider or person subjected to a civil money penalty may appeal any decision by the director to assess the penalty.

Notwithstanding any other provisions of law, all money collected pursuant to to this section shall be deposited in the General Fund on a monthly basis.

SEC. 7. Section 14165.10 is added to the Welfare and Institutions Code, to read:

14165.10. The commission or department may direct independent studies, to include, but not be limited to, the following objectives:

(a) The development of a method of private medical insurance coverage of the Medi-Cal program as to those Medi-Cal beneficiaries whose medical costs reach a catastrophic level or who become chronically ill.

(b) The potential for Medi-Cal payment of medical coverage premiums for the various classifications of Medi-Cal beneficiaries.

(c) For each classification of Medi-Cal beneficiaries, the provision of specified medical benefits on the basis of subsidization by the beneficiaries through the payment of premiums.

(d) A comparison of Medi-Cal benefits with the medical coverage available to most Californians not covered by Medi-Cal, along with analysis and recommendations concerning alternative benefit packages for Med -Cal.

(e) The determination of whether health care plans providing services to Medi-Cal beneficiaries should offer less than the full range of Medi-Cal benefits.

(f) The development of alternative standards for beneficiary eligibility and copayment under Medi-Cal.

(g) The development of a method of response to temporary deficits in the Medi-Cal program that will both control expenditures and, to the extent possible, preserve the availability to beneficiaries of essential health services.

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.

CHAPTER 961

An act to amend Section 17954 of, and to add Section 25141 to, the Revenue and Taxation Code, relating to the Uniform Division of Income for Tax Purposes Act, to take effect immediately, tax levy.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Section 17954 of the Revenue and Taxation Code is amended to read:

17954. Except as provided in Section 25141, gross income from sources within and without this State shall be allocated and apportioned under rules and regulations prescribed by the Franchise Tax Board.

SEC. 2. Section 25141 is added to the Revenue and Taxation Code, to read:

25141. (a) For purposes of this section, the following definitions shall apply:

(1) "Entity" means an individual, corporation, association,

partnership, estate, trust, or any combination thereof.

(2) "Person" means an individual or corporation.

(3) "Professional athletic team" means any entity which has all of the following characteristics:

(A) Employs concurrently during the income year five or more persons, who are compensated for being participating members of an athletic team engaging in public contests.

(B) Is a member of a league composed of at least five entities which are engaged in the operation of an athletic team and which are located in this and other states or in other countries.

(C) Has total minimum paid attendance in the aggregate for all contests wherever played during the income year of 40,000 persons.

(D) Has minimum gross income in the income year of one hundred thousand dollars ($100,000).

(b) For purposes of this chapter, a team shall be considered to have its operations based in the state or country in which the team derives its territorial rights under the rules of the league of which it is a member.

(c) The business income of a professional athletic team derived directly or indirectly from its operations as a professional athletic team shall be allocated to this state pursuant to the following three-factor formula.

(1) Computation of the property factor under Section 25129:

(A) For a team that has its operations based in this state, the average value of all real and tangible personal property, wherever located, and owned or rented and used during the income year, shall be deemed to have been owned or rented and used in this state during the income year.

(B) For a team that has its operations based outside of this state, the average value of all real and tangible personal property, wherever located, and owned or rented and used during the income year, shall be deemed to have been owned or rented and used outside this state during the income year.

(2) Computation of the payroll factor under Section 25132:

(A) For a team that has its operations based in this state, the total compensation paid everywhere during the income year shall be deemed to have been paid in this state during the income year.

(B) For a team that has its operations based outside of this state, the total compensation paid everywhere during the income year shall be deemed to have been paid outside this state during the income year.

(3) Computation of the sales factor under Section 25134:

(A) For a team that has its operations based in this state, the total sales everywhere during the income year shall be deemed to have been made in this state during the income year.

(B) For a team that has its operations based outside of this state, the total sales everywhere during the income year shall be deemed to have been made outside this state during the income year.

(d) If any team that has its operations based in this state is

required to allocate or apportion a part of its business income derived directly or indirectly from its operations as a professional athletic team to another state or country by the laws, regulations, or requirements of the other state or country and pays an income or franchise tax measured by income thereon as a result of the allocation or apportionment, then all of the following shall apply:

(1) The business income of the team otherwise subject to this section shall be reduced for purposes of this section by the amount of the business income which is allocated or apportioned to and taxed by the other state or country.

(2) This section shall not apply to any team in the same league that has its operations based in the other state or country, and the business income of any such team derived directly or indirectly from its operations as a professional athletic team shall be allocated or apportioned to this state in a manner consistent with the method of allocation or apportionment imposed by the other state or country on the business income of the team that has its operations based in this state.

SEC. 3. It is the intent of the Legislature by this act to provide for the allocation and apportionment of the income of professional athletic teams in a manner consistent with the decision of the California Court of Appeal in the case of Boston Professional Hockey Association, Inc. v. Franchise Tax Board. The enactment of this act shall not be construed to mean, nor is any inference to be drawn, that the unitary concept as now applied is to be limited, revised, or modified in any manner. It is further the intent of the Legislature that this act shall not apply to, nor affect, the taxation of professional athletes.

The provisions of this act are limited to the allocation and apportionment of business income of professional athletic teams, and do not limit or affect the minimum tax imposed on professional athletic teams doing business in this state.

SEC. 4. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 962

An act to amend Sections 32.5, 1634, 1831, 1832, 1836, 1838, 1839, 1840, 1842, 1843, 1844, and 1845 of, to amend the heading of Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of, to add Sections 1842.1, 1848 and 1849 to, to repeal and add Section 1841 of, and to repeal Section 1641 of, the Insurance Code, relating to insurance.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 32.5 of the Insurance Code is amended to read:

32.5. "Life and disability insurance analyst" means a person who, for a fee or compensation of any kind, paid by or derived from any person or source other than an insurer, advises, purports to advise, or offers to advise any person insured under, named as beneficiary of, or having any interest in, a life or disability insurance contract, in any manner concerning that contract or his or her rights in respect thereto.

SEC. 2. 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 any of 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 and disability insurance analyst.

(e) As a surplus line broker or special lines surplus line broker.

(f) As a bail agent, bail solicitor or bail permittee.

(g) As an employee, not paid on a commission basis, of a home protection company.

SEC. 3. Section 1641 of the Insurance Code is repealed.

SEC. 3.5. The heading of Chapter 8 (commencing with Section 1831) of Part 2 of Division 1 of the Insurance Code is amended to read:

CHAPTER 8. LIFE AND DISABILITY INSURANCE ANALYSTS

SEC. 4. Section 1831 of the Insurance Code is amended to read:

1831. The following persons are exempt from this chapter:

(a) Active members of the State Bar of California.

(b) Any person who has passed all of the qualifying examinations necessary to become an associate of the Society of Actuaries.

(c) An officer or employee of any bank or trust company who receives no compensation from sources other than the bank or trust company for activities connected with his employment which would otherwise subject him to this chapter.

(d) Any person employed by an employer who on behalf of his or her employer or any employee of his or her employer transacts life or disability insurance with, but not on behalf of, an insurer; or,

Advises his or her employer or any employee of his or her employer in any manner concerning life or disability insurance; if:

(1) The employer receives no compensation by reason of such transactions or advice; and

(2) Such person receives no compensation from any source other than his or her employer for such transactions and advice.

(e) An investment advisor, as defined in Section 25009 of the Corporations Code, when acting in that capacity.

SEC. 5. Section 1832 of the Insurance Code is amended to read:

1832. An employee or officer of any insurer is not eligible for license as a life and disability insurance analyst. A life insurer shall not pay a life and disability insurance analyst any commission directly or indirectly, on any life or disability insurance transacted by and in the capacity as a life and disability insurance analyst.

SEC. 6. Section 1836 of the Insurance Code is amended to read:

1836. A license shall not be issued until the commissioner has satisfied himself upon evidence presented and recorded as to the integrity of the applicant and that the applicant:

(a) Is of good business reputation and of good general reputation.

(b) Has a thorough knowledge of life or disability insurance.

(c) Has not participated in or been connected with any business transaction which, in the opinion of the commissioner, tends to show unfitness to act in a fiduciary capacity or to maintain the standards of fairness and honesty required of a trustee or other fiduciary.

(d) Has not willfully misstated any material fact in an application to the commissioner for a license or in a document filed in support of such an application, and has not obtained his or her license by concealment or knowing misrepresentation.

(e) Is a fit and proper person to hold the license applied for.

(f) Does not seek the license for the purpose of avoiding or preventing the operation or enforcement of the insurance laws of this state.

(g) Has within 12 months preceding issuance of the license taken and passed the qualification examination provided in this article.

SEC. 7. Section 1838 of the Insurance Code is amended to read:

1838. A license shall not be refused by the commissioner on the basis of Section 1836, excepting subdivision (g), without hearing on notice to the applicant. The proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all the powers granted therein.

SEC. 7.5. Section 1839 of the Insurance Code is amended to read:

1839. The commissioner shall conduct or arrange for a written examination, to be given at least twice a year upon questions prepared by the commissioner, as to the qualifications of the applicant to act as a life and disability insurance analyst.

SEC. 8. Section 1840 of the Insurance Code is amended to read:

1840. The examination shall be of sufficient scope to satisfy the commissioner that the applicant has sufficient knowledge of and is thoroughly familiar with the life and disability insurance laws of this state, and the provisions, terms, and conditions of life and disability insurance contracts written on residents of this state, and has a thorough and complete knowledge of life and disability insurance.

SEC. 9. Section 1841 of the Insurance Code is repealed.

SEC. 9.5. Section 1841 is added to the Insurance Code, to read:

1841. Every individual and organization licensee, and every applicant for such a license, under this chapter shall file with the commissioner in writing the true name of the individual or organization, and also all fictitious names under which he or she conducts or intends to conduct his or her business, and after licensing shall file with the commissioner any change in or discontinuance of those names. The commissioner may, in writing, disapprove the use of any true or fictitious name (other than the bona fide natural name of an individual) by any licensee on any ground set forth in Section 1724.5. A licensee may not use a true or fictitious name after being notified by the commissioner in writing that the use is contrary to this section. If the commissioner determines that there are facts in mitigation in connection with the continued use of the name, the commissioner may permit its use for a specified reasonable period of time if, in connection therewith, he or she imposes such conditions as will protect the public and achieve the purposes of this section. Any such permission, and any such conditions, shall be in writing.

SEC. 10. Section 1842 of the Insurance Code is amended to read:

1842. The provisions of Chapter 5 (commencing with Section 1621) concerning the license period and the procedure and time for filing applications for renewal of licenses and for filing notices of intention to keep licenses in force applicable to life agents are applicable to licenses authorized by this chapter except that participation in such applications or notices by an admitted insurer is not required.

The fee for filing an application for the issuance or renewal of a license to act as a life and disability insurance analyst or an notice of intention to keep such a license in force is one hundred dollars ($100). As respects life and disability insurance analysts all references in Section 1718 to fees shall be deemed to be to the fee herein specified. The fee for filing application to take the qualifying examination for life and disability insurance analyst is fifty dollars ($50) and the fee for filing the first application to take the qualifying examination must be paid at the same time the application for issuance of the license is paid. The fees specified in this section shall be paid in advance, and shall be determined by multiplying the number of natural persons to be licensed, or to be named on or added to a license, by the amounts specified in this section as to each such license, multiplied by the number of license years in the period of the license applied for, or the remaining period of the existing license counting any initial fractional license year of the period as one year for that purpose.

SEC. 11. Section 1842.1 is added to the Insurance Code, to read:

1842.1. (a) An organization may hold a license to act as a life and disability insurance analyst. An organization is not eligible for license under this chapter if its articles of incorporation or association or agreement of copartnership forbid it to act in the capacity for which

a license is sought.

(b) Only the following natural persons are eligible to be named under an organizational license under this chapter:

(1) Any general partner or employee of a copartnership.

(2) Any member, officer, or employee of an association.

(3) Any officer or employee of the corporation.

(c) Except as otherwise provided in this chapter, whenever reference is made in this chapter to an applicant for a license, the reference includes each natural person who applies to be named on the license of an organization, and wherever reference is made to a person that has been licensed, that reference shall also apply to a person named to act in such capacity under the license of an organization.

SEC. 12. Section 1843 of the Insurance Code is amended to read:

1843. The provisions of Sections 780, 781, 782 and 784, Article 6.5 (commencing with Section 790) of Chapter 2, and Article 13 (commencing with Section 1737) of Chapter 5 are applicable to licensees and applicants for license under this chapter.

SEC. 12.3. Section 1844 of the Insurance Code is amended to read:

1844. Any person who acts, offers to act, or assumes to act, as a life and disability insurance analyst when not licensed by the commissioner as provided by this article, or after the license granted to him or her has been suspended or revoked, unless proceedings are pending in the courts to review the act of the commissioner, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than one year or by both such fine and imprisonment.

SEC. 12.5. Section 1845 of the Insurance Code is amended to read:

1845. Any person who acts, offers to act or assumes to act as a life and disability insurance analyst in violation of Section 1844 is guilty of a public nuisance and may be enjoined from so doing pursuant to Section 12928.6.

SEC. 13. Section 1848 is added to the Insurance Code, to read:

1848. A person licensed pursuant to this chapter shall not charge a fee for any service which is customarily associated with the solicitation of insurance sales or the servicing of insurance contracts written by the licensee or contracts for which the licensee is receiving compensation from the insurer. A licensee shall not receive any fee unless that fee is based upon a written agreement signed by the party to be charged.

The agreement shall include a statement that information and services concerning insurance policies may be obtained directly from the insurer without cost, a statement outlining the services to be performed for which a fee is to be charged, and the fee to be charged. Additionally, if the licensee is also licensed pursuant to Chapter 5 (commencing with Section 1621), there shall be a statement in the agreement indicating that the licensee is so licensed

and, as such, receives commissions for the sale of products. A copy of every such agreement shall be retained by the licensee for not less than three years after the services have been fully performed.

SEC. 14. Section 1849 is added to the Insurance Code, to read:

1849. The department may, from time to time, publish rules and regulations regarding the initial and continuing qualifications to obtain the life and disability insurance analyst license. No person shall be eligible for a life and disability insurance analyst license unless for five years preceding the date of the examination, he or she has worked as a life licensee under Chapter 5 (commencing with Section 1621) or as an employee of such a licensee.

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 963

An act to add Chapter 12 (commencing with Section 50825) to Part 2 of Division 31 of the Health and Safety Code, relating to housing.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983]

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

SECTION 1. Chapter 12 (commencing with Section 50825) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 12. COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FUNDS

50825. It is the intent of the Legislature in enacting this chapter to ensure that funds allocated to the state pursuant to the federal Small Cities Community Development Block Grant Program (42 U.S.C. 5306(d)), and administered by the department, be of maximum benefit in meeting the housing needs of persons and families of low or moderate income. The Legislature intends that these funds be provided to eligible cities and counties that encourage new housing developments and which need the funds to support that development. It is the intent of the Legislature to reaffirm established state policy that each eligible city or county contribute to meeting the statewide housing goals and that funds allocated pursuant to this chapter be distributed accordingly.

50826. As used in this chapter:

(a) "Eligible city or county" means an area which is not a metropolitan city or part of an urban county, as defined by paragraphs (4) and (6), respectively, of subsection (a) of Section 5302 of Title 42 of the United States Code.

(b) "Persons and families of low or moderate income" means persons and families whose income does not exceed 80 percent of the area median income, adjusted for family size, as determined pursuant to regulations adopted by the department.

(c) "Program" means the Small Cities Community Development Block Grant Program created pursuant to federal law (42 U.S.C. 5301, et seq.).

50827. All funds made available pursuant to the program shall, consistent with the requirements of subsection (c) of Section 5301 of Title 42 of the United States Code, be utilized to provide decent housing, a suitable living environment, and expanding economic opportunities, principally for persons and families of low or moderate income.

50828. Not less than 51 percent of the funds made available to the department pursuant to the program shall be utilized by the department to make grants to eligible cities or counties for the purpose of providing or improving housing opportunities for persons and families of low or moderate income or for purposes directly related to the provision or improvement of housing opportunities for persons and families of low or moderate income, including, but not limited to, the construction of infrastructure.

50829. As a condition of receiving funds pursuant to this chapter, an eligible city or county shall submit a housing element to the department in accordance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code. However, except as otherwise provided in Section 50830, no application for funds shall be denied because of the content of the housing element or because of the findings made by the department pursuant to Section 65585 of the Government Code.

50830. (a) Except as otherwise provided in subdivisions (b) and (c), no city or county shall be eligible to receive funds pursuant to this chapter if the city or county has adopted a general plan, ordinance, or other measure which directly limits, by number, either of the following:

(1) The building permits that may be issued for residential construction.

(2) The buildable lots which may be developed for residential purposes.

(b) Subdivision (a) shall not apply to either of the following:

(1) An ordinance adopted by a city or county which does any of the following:

(A) Imposes a moratorium, to protect the public health and safety, on residential construction for a specified period of time, if,

under the terms of the ordinance, the moratorium will cease when the public health and safety is no longer jeopardized by the construction.

(B) Creates agricultural preserves pursuant to Chapter 7 (commencing with Section 51200) of Part 2 of Division 1 of Title 5 of the Government Code.

(C) Was adopted pursuant to a specific requirement of a state or multistate board, agency, department, or commission.

(2) A city or county which has a housing element that the department has found to be adequate pursuant to subdivision (c) of Section 65585 or which is deemed to be in compliance with the requirements of Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code pursuant to Section 65586 of the Government Code at the time the city or county applies for funds under the program, unless a final order has been issued by a court in which the court determined that the housing element is not in compliance with Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7 of the Government Code.

(c) A city or county which has adopted a general plan, ordinance, or other measure subject to the restrictions of subdivision (a), which are not exempted by subdivision (b), may, notwithstanding subdivision (a), receive funds pursuant to this chapter if the use of the funds is restricted for housing for persons and families of low or moderate income. However, applications from cities or counties which have not adopted a general plan, ordinance, or other measure subject to the restrictions of subdivision (a) shall, to the extent that eligible applications for grants exceed the amount available for distribution pursuant to this chapter, have priority over applications from cities or counties which have adopted such a general plan, ordinance, or other measure which are not exempted by subdivision (b).

50831. One and one-fourth percent of the funds made available to the department under the program shall be utilized by the department to make grants to cities and counties who apply to the department for those funds on behalf of Indian tribes that do not fall within the meaning of Indian tribe, as defined by paragraph (17) of subsection (a) of Section 5302 of Title 42 of the United States Code. Those funds shall be utilized by those Indian tribes for the same purposes as those specified in Section 50828.

CHAPTER 964

An act to amend Section 3301 of the Government Code, relating to public safety officers and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983.]

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 subdivision (f), 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. 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. 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:

It is in the interest of public safety to insure the continuance of stable relations between public safety employees and their employers which this act will provide.

CHAPTER 965

An act to amend Section 23104 of the Vehicle Code, relating to traffic offenses.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Section 23104 of the Vehicle Code is amended to read:

23104. (a) Except as provided in subdivision (b), whenever

reckless driving of a vehicle proximately causes bodily injury to any person other than the driver, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not less than two hundred and twenty dollars ($220) nor more than five hundred dollars ($500), or by both the fine and imprisonment.

(b) Any person convicted of reckless driving which proximately causes great bodily injury, as defined in Section 12022.7 of the Penal Code, to any person other than the driver, who previously has been convicted of a violation of Section 23103, 23104, 23109, 23152, or 23153, 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 two hundred twenty dollars ($220) nor more than five hundred dollars ($500), or by both the fine and imprisonment.

CHAPTER 966

An act to amend Section 23824 of the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 23824 of the Business and Professions Code is amended to read:

23824. Limitations provided by Section 23816 on the number of licensed premises shall not apply to premises owned by the State of California, any incorporated city, county, city and county, airport district, or other district or public corporation of the State of California or to premises leased to any city or county, so long as any such premises are operated as a bona fide public eating place, provided, however, that civic auditoriums owned by any incorporated city, county, city and county, or other district or any premises leased to any county or city for use as a civic auditorium and directly operated by a public entity shall be subject to the limitations provided by Section 23816 but shall not be required to be operated as a bona fide public eating place. Such civic auditorium shall further not be subject to the provisions of Section 23793.

Licenses issued on premises owned by the state, incorporated city, county, city and county, airport district, or other district or public corporation of the State of California, or issued on premises leased to any county or city, shall be renewable as set forth in Section 24048.1 or 24048.3. Such licenses shall be excluded from the number of

premises used in determining application of the limitations provided by this article. Such licenses shall be subject to the provisions of Section 23954.5 and shall be only transferable from person to person at the same premises. Prior to the issuance of such licenses, the governmental agency owning or the county or city leasing such premises shall file with the department a written request that the license be issued and a written statement setting forth the reasons why issuance of the license would be in the public interest.

A written request filed with the department by the governmental agency owning or the city or county leasing premises used as a civic auditorium and directly operated as a public entity that the license be issued need not contain a written statement setting forth the reasons why issuance of the license would be in the public interest.

Funds derived from fees collected pursuant to the amendments made to this section at the 1975–76 Regular Session of the Legislature shall be deposited in the General Fund.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide parity between cities and counties with respect to the subletting of leased premises to restaurant operators and thereby afford cities the same revenue opportunities now enjoyed by counties, it is necessary that this act take effect immediately.

CHAPTER 967

An act to add Sections 21068.5 and 21093 to, and to add and repeal Section 21151.6 of, the Public Resources Code, relating to environmental quality.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 21068.5 is added to the Public Resources Code, to read:

21068.5. "Tiering" or "tier" means the coverage of general matters and environmental effects in an environmental impact report prepared for a policy, plan, program or ordinance followed by narrower or site-specific environmental impact reports which incorporate by reference the discussion in any prior environmental impact report and which concentrate on the environmental effects which (a) are capable of being mitigated, or (b) were not analyzed as significant effects on the environment in the prior environmental impact report.

SEC. 2. Section 21093 is added to the Public Resources Code, to

read:

21093. (a) The Legislature finds and declares that tiering of environmental impact reports will promote construction of needed housing and other development projects by (1) streamlining regulatory procedures, (2) avoiding repetitive discussions of the same issues in successive environmental impact reports, and (3) ensuring that environmental impact reports prepared for later projects which are consistent with a previously approved policy, plan, program, or ordinance concentrate upon environmental effects which may be mitigated or avoided in connection with the decision on each later project. The Legislature further finds and declares that tiering is appropriate when it helps a public agency to focus upon the issues ripe for decision at each level of environmental review and in order to exclude duplicative analysis of environmental effects examined in previous environmental impact reports.

(b) To achieve this purpose, public agencies may tier environmental impact reports wherever possible.

SEC. 3. Section 21151.6 is added to the Public Resources Code, to read:

21151.6. (a) At the time that an application is received and accepted as complete by a local agency requiring a discretionary approval subject to this division, the agency shall determine whether or not it is able to meet the time limits specified in this chapter for assessing environmental impacts. If the local agency determines that it will be unable to meet those time limits with its existing staff resources, the agency shall, upon request of an applicant, contract with or employ qualified private entities or persons on a temporary basis to perform the services necessary to permit the agency to meet the time limits. In choosing the entity or person to perform the necessary services, the agency shall take into consideration the views of the applicant. The entity or person is solely responsible to the local agency. However, a local agency need not enter into a contract or employ persons if it determines that no entities or persons are available or qualified to perform the services.

(b) Entities or persons contracted with or employed by a local agency may, pursuant to an agreement with the local agency, perform functions necessary to meet the requirements of this division and shall not perform those functions reserved by this division or local ordinance to the decisionmaking body.

(c) A local agency may charge and may require the applicant to pay a fee in the amount necessary to defray costs directly attributable to employing or contracting with entities or persons performing services pursuant to this section.

(d) This section shall not be construed to affect any provision of this division which may require independent judgment of the lead agency.

(e) This section 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.

SEC. 4. Notwithstanding Section 6 of Article XIII B of the California Constitut on 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 968

An act to add Section 367a to the Penal Code, relating to crimes.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 367a is added to the Penal Code, to read:

367a. (a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any dependent adult, with knowledge that he or she is a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any dependent adult, willfully causes or permits the person or health of the dependent adult to be injured, or willfully causes or permits the dependent adult to be placed in a situation such that his or her person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any dependent adult, with knowledge that he or she is a dependent adult, to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any dependent adult, willfully causes or permits the person or health of the dependent adult to be injured or willfully causes or permits the dependent adult to be placed in a situation such that his or her person or health may be endangered, is guilty of a misdemeanor.

(c) Any caretaker of a dependent adult who violates any provision of law proscribing theft or embezzlement, with respect to the property of that dependent adult, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for two, three, or four years when the money, labor, or real or personal property taken is of a value exceeding four hundred dollars ($400), and by fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail not exceeding one year, or both, when the money, labor, or real or personal property taken is of a

value not exceeding four hundred dollars ($400).

(d) As used in this section, "dependent adult" means a person who, because of any mental disability due to birth defect, physical disorder, or advanced age, is unable to properly provide for his or her own personal needs with regard to his or her physical health, food, clothing, or shelter, or is substantially unable to manage his or her own financial resources or to resist fraud or undue influence.

(e) As used in this section, "caretaker" means any person who has the care, custody, or control of or who stands in a position of trust with, a dependent adult.

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 969

An act to amend Sections 26820.6, 27293, and 72054 of, to amend, add, and repeal Section 72055 of, and to add Sections 26835, 26863, and 68090.7 to, the Government Code, relating to county records.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Section 26820.6 of the Government Code is amended to read:

26820.6. The term "total fee" as used in Sections 26820.4, 26826, and 26827, includes the clerk's fee, the amount allocated to the Judges' Retirement Fund pursuant to Section 26822.3, 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. The fees authorized for the maintenance of the conciliation court pursuant to Sections 26840.3 and 26840.4, and for the automation and conversion of court records pursuant to Section 26863, may be included in the total fee, or may be in addition thereto, as determined by the board of supervisors pursuant to Section 68090.

SEC. 2. Section 26835 is added to the Government Code, to read:

26835. (a) The county clerk shall collect a fee of two dollars ($2) per signature for any document that he or she is required to authenticate pursuant to court order.

(b) Each document authenticated by the county clerk shall

contain the following statement:

"_____, County Clerk and ex officio Clerk of the Superior Court, in and for the County of _____, State of California. Signed pursuant to court order dated _____ in the matter of _____ petitioner v. _____, respondent, Case No. _____."

SEC. 3. Section 26863 is added to the Government Code, to read:

26863. The board of supervisors of any county may provide for an additional fee of one dollar ($1) for filings in a civil action or proceeding, as specified in Section 68090.7, to defray the cost of automating the county clerk and municipal and justice court recordkeeping system and conversion of the county clerk and municipal and justice court document storage system to micrographics. Upon completion of the automation and conversion, and payment of the costs therefore, that additional fee shall no longer be imposed.

SEC. 4. Section 27293 of the Government Code is amended to read:

27293. (a) Except as otherwise provided in subdivision (b), when an instrument intended for record is executed or certified in whole or in part in any language other than English, the recorder shall not accept the instrument for record. A translation in English of an instrument executed or certified in whole or in part in any language other than English may be presented to the judge of a court of record, and upon verification that the translation is a true translation the judge shall duly make certification of the fact under seal of the court, attach the certification to the translation, and attach the certified translation to the original instrument. For such verification and certification, a fee of one dollar and fifty cents ($1.50) shall be paid for each folio contained in the translation. The attached original instrument and certified translation may be presented to the recorder, and upon payment of the usual fees the recorder shall accept and permanently file the instrument and record the certified translation. The recording of the certified translation gives notice and is of the same effect as the recording of an original instrument. Certified copies of the recorded translation may be recorded in other counties, with the same effect as the recording of the original translation; provided, however, that in those counties where photostatic or photographic method of recording is employed, the whole instrument, including the foreign language and the translation may be recorded, and the original instrument returned to the party leaving it for record or upon his or her order.

(b) The provisions of subdivision (a) do not apply to any instrument offered for record which contains provisions in English and a translation of the English provisions in any language other than English, provided that the English provisions and the translation thereof are specifically set forth in state or federal law.

SEC. 5. Section 68090.7 is added to the Government Code, to read:

68090.7. The board of supervisors of any county, as specified in

Section 26863 and 72054 may provide for a fee of one dollar ($1) in addition to, and may exceed the limits fixed by, Sections 26820.4, 26826, 26827, 72055, and 72056, for the following filings in each civil action or proceeding:

(a) The first paper and papers transmitted from another court, as specified in Section 26820.4 and 72055.

(b) The first paper on behalf of an adverse party, as specified in Section 26826 and 72056.

(c) A petition or other paper in a probate, guardianship, or conservatorship matter as specified by Section 26827.

The fee shall not apply to adoptions, appeals from an inferior court, or motions.

Except as otherwise specified by law, all fees collected under this section shall be transmitted to the county treasurer and an amount equal thereto shall be used exclusively to pay the costs of automating the county clerk's and municipal and justice court recordkeeping system or the conversion of the court's document system to micrographics or both.

SEC. 6. Section 72054 of the Government Code is amended to read:

72054. Except as otherwise provided by law, the clerk of each municipal court and the clerk of each justice court shall charge the fees prescribed by this article, and the fees prescribed by Sections 26823, 26828, 26829, 26830, 26831, 26832, 26833, 26834, 26836, 26837, 26839, 26853, 26855, and 26863 for all services to be performed.

SEC. 7. Section 72055 of the Government Code is amended to read:

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

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

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

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 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. The fee authorized for the automation and conversion of court records pursuant to Section 68090.7 may be included in the total fee, or may be in addition

thereto, as determined by the board of supervisors.

This section shall remain in effect only until January 1, 1988, and as of such date is repealed.

SEC. 8. Section 72055 is added to the Government Code, to read:

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

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

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

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030, 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. 9. Section 72055 of the Government Code is amended to read:

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

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

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

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 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. The fee authorized for the automation and conversion of court records pursuant to Section 68090.7 may be included in the total fee, or may be in addition thereto, as determined by the board of supervisors.

(b) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

(c) This section shall remain in effect only until January 1, 1988, and as of such date is repealed.

SEC. 10. Section 72055 is added to the Government Code, to read:

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

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

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

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.150, 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.

(b) The fee shall be waived in any action for damages against a defendant, based upon the defendant's commission of a felony offense, upon presentation to the clerk of the court of a certified copy of the abstract of judgment of conviction of the defendant of the felony giving rise to the claim for damages. If the plaintiff would have been entitled to recover those fees from the defendant had they been paid, the court may assess the amount of the waived fees against the defendant and order the defendant to pay that sum to the county.

SEC. 11. Section 9 of this bill incorporates amendments to Section 72055 of the Government Code proposed by both this bill and AB 493. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, (2) each bill amends Section 72055 of the Government Code, and (3) this bill is enacted after AB 493, in which case Section 72055 of the Government Code, as amended by AB 493, shall remain operative only until the operative date of this bill, at which time Section 9 of this bill shall become operative, and Section 7 of this bill shall not become operative.

SEC. 12. Section 8 of this act shall become operative only if Section 7 of this act becomes operative, in which event it shall become operative on January 1, 1988.

SEC. 13. Section 10 of this act shall become operative only if Section 9 of this act becomes operative, in which event it shall become operative on January 1, 1988.

SEC. 14. 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. 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 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 970

An act to add Section 68511.5 to the Government Code, relating to courts.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 68511.5 is added to the Government Code, to read:

68511.5. Not later than January 1, 1985, the Judicial Council shall adopt rules of court regulating the selection of appointed counsel, other than the State Public Defender, to handle criminal appeals by indigent defendants. These rules shall establish procedures for the appointment of counsel in all appellate districts. In developing these rules, the Judicial Council shall consider the need to include screening of eligible appointees, the need to match the skills and experience of the attorney with the demands of the case and the process by which this might be done, and the need or desirability of evaluating an attorney's performance before assigning the attorney to another case. Further, in developing these rules, the Judicial Council shall consult with local bar associations and the Office of the State Public Defender.

SEC. 2. It is the intent of the Legislature that the rules of court adopted pursuant to Section 1 of this act shall not require the Office of the State Public Defender to handle cases in excess of its budgeted capacity.

CHAPTER 971

An act to add Section 1001.5 to the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983.]

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

SECTION 1. The Legislature hereby finds and declares that the interests of the taxpayer are best served when state government expends its resources on activities which clearly affect California and avoids engaging in regulatory activities that are duplicative of, and more properly the concern of, other states.

The Legislature further finds and declares that recent decisions of the Public Utilities Commission asserting jurisdiction over the construction of electrical generation facilities in other states are examples of unnecessary and duplicative activities in which state government should not be engaged, where the customers of a public utility constructing a plant reside predominately outside the boundaries of California.

It is, therefore, the intent of the Legislature, in enacting Section 1001.5 of the Public Utilities Code, that public utilities whose customers reside predominantly outside the boundaries of this state should not be required to obtain a certificate of public convenience and necessity from the commission before constructing a facility outside the boundaries of this state, except in those instances where the construction of those facilities could result in a significant impact on the state.

SEC. 2. Section 1001.5 is added to the Public Utilities Code, to read:

1001.5. (a) The commission shall exempt the construction of any line, plant, or system, or extension thereof, located outside the boundaries of the state from the requirements of Section 1001, upon the application of the public utility constructing that line, plant, or system, or extension thereof, if the public utility derives 75 percent or more of its operating revenues from outside the state, as recorded in the fiscal period immediately before the filing of the application, unless the commission determines that the public interest requires that the construction should not be exempt from Section 1001.

(b) Except as provided in subdivision (c), the commission shall make the determination denying the exemption, as specified in subdivision (a), within 90 days after the public utility files the application for exemption with the commission. If the commission fails to make this determination within that 90-day period, the construction of that line, plant, or system, or extension thereof, is exempt from the requirements of Section 1001.

(c) The commission and the public utility filing the application for exemption may, if both agree, extend the time period within which the commission is required to make the determination denying the exemption, for not more than an additional 60 days after the expiration of the 90-day period specified in subdivision (b).

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 insure that the Public Utilities Commission immediately desists from expending its time and resources in certification proceedings for power plants situated outside this state constructed by public utilities whose operations are primarily outside this state, and to insure that an unreasonable impediment is removed from the certification process for these new energy sources, it is necessary that this act take effect immediately.

CHAPTER 972

An act to add Section 33487 to the Food and Agricultural Code, relating to dairy farms.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Section 33487 is added to the Food and Agricultural Code, to read:

33487. No environmental impact report may be required by any state agency for any activity of a dairy farm, including adoption of waste discharge requirements pursuant to Division 7 (commencing with Section 13000) of the Water Code, under all of the following circumstances:

(a) When the proposed dairy will be constructed and operated in accordance with the minimum standards established under this chapter.

(b) Where the applicable local public agencies have completed all necessary reviews and approvals, including the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code, where applicable.

(c) Where a permit for construction has been issued by the appropriate local agency or agencies, and construction undertaken.

This section shall not apply to any dairy that received a permit, and undertook construction, prior to the effective date of the legislation enacting this section.

CHAPTER 973

An act to add Title 2.9 (commencing with Section 1812.400) to Part 4 of Division 3 of the Civil Code, and to add Sections 779.30, 779.31, and 10127.5 to the Insurance Code, relating to credit insurance.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Title 2.9 (commencing with Section 1812.400) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 2.9. CREDITOR REMEDIES: DISABILITY INSURANCE

1812.400. The Legislature finds and declares that it is unfair for a creditor who has directly participated in, arranged, or received a commission or other compensation for the sale of credit disability insurance to the debtor, or that creditor's successor in interest, to invoke a creditor's remedy because of a debtor's nonpayment of any sum which has become due during a period of disability until a reasonable time has passed for the disability insurance claim to be filed, verified and processed.

1812.401. For the purposes of this title:

(a) "Credit disability insurance" means insurance of a debtor to provide indemnity for payments becoming due on a specific loan or other credit transaction while the debtor is disabled as defined in the policy.

(b) "Creditor" means the lender of money or vendor or lessor of goods, services, property, rights, or privileges, for which payment is arranged through a credit transaction, who has directly participated in, arranged, or received a commission or other compensation for the sale of credit disability insurance to the debtor, or any successor to the right, title, or interest of any such lender, vendor, or lessor, and an affiliate, associate, or subsidiary of any of them or any director, officer, or employee of any of them or any other person in any way associated with any of them.

(c) "Debtor" means a borrower of money or a purchaser or lessee of goods, services, property, rights, or privileges for which payment is arranged through a credit transaction.

(d) "Creditor's remedy" means and includes the imposition of any late charge or penalty, the acceleration of the maturity of all or any part of the indebtedness, the collection or assignment for the collection of all or any part of the indebtedness, the commencement of any action or special proceeding, or the enforcement of any security interest in any manner including, but not limited to, repossession, foreclosure, or the exercise of a power sale contained in a deed of trust or mortgage.

(e) "Disability claim period" or "claim period" means the period beginning on the due date of the first payment not paid by the debtor for which the debtor claims disability coverage arising from a then current disability and continuing until three calendar months thereafter or until the insurer pays or rejects the claim, whichever occurs sooner.

1812.402. (a) No creditor, as defined in Section 1812.401, shall invoke any creditor's remedy against a debtor because of the debtor's nonpayment of any sum which becomes due during any disability claim period and for which credit disability insurance coverage, subject to this title, is provided.

(b) Upon receiving notice of the debtor's claim of disability, the creditor shall inform the debtor in writing of the name, address, and telephone number of the insurer or its designated representative from whom the debtor may obtain claim forms. Upon receiving notice of the disability claim, the insurer or its designated representative shall send necessary claim forms to the debtor. The debtor shall submit the claim to the insurer or its designated representative and shall notify the creditor that a claim has been submitted.

This subdivision shall apply to the original creditor who sold the disability insurance and shall not apply to that creditor's successor in interest if the successor in interest (1) is not related by common ownership or control to that creditor and (2) has no information regarding the name, address, and telephone number of the insurer or its designated representative.

(c) Nothing herein shall prohibit a creditor from invoking any creditor's remedy during or after the claim period for the debtor's nonpayment of any sum due prior to the claim period, whether or not such nonpayment is related to the claimed disability, or for the debtor's nonpayment of any interest, finance charge, or late charge accruing during the claim period of any sum due prior to such period.

(d) Nothing herein shall prohibit a creditor from foreclosing a lien on any property to protect that creditor's security interest if a senior lienholder on that property (1) has initiated the foreclosure of its lien, (2) is not prohibited from continuing the foreclosure by any law or order of court, or (3) will not otherwise suspend or delay its foreclosure proceeding until after the disability claim period.

(e) If the insurer pays the claim within the disability claim period, the creditor shall treat each payment made by the insurer as though it were timely made by the debtor. If the insurer rejects the claim within the disability claim period or accepts the claim within the claim period as a partial disability which results in a payment of less than the full benefit which would be paid for the total disability, the debtor shall have the opportunity to pay the entire amount which became due during the claims period or the difference between the amount which became due during the claims period and the amount paid by the insurer for the partial disability without being subject to any creditor's remedy, except the imposition of late charges, for 35

days following the date on which the insurer sends notice of the rejection of the claim or acceptance of the claim as a partial disability. In the event the debtor does not pay the entire amount which became due during the claim period plus any accrued late charges within 35 days from such date, the creditor may then invoke any creditor's remedy.

(f) The obligations of the creditor and debtor pursuant to this section shall be disclosed in writing in at least 10-point type by the creditor to the debtor at the time the creditor sells the insurance, in the manner provided in paragraph (1), and by the insurer to the debtor at the time the insurer sends claim forms pursuant to subdivision (b), in the manner provided in paragraph (2).

(1) The disclosure required by the creditor shall be substantially in the following form:

CLAIM PROCEDURE

If you become disabled, tell us (your creditor) right away. We will tell you where to get claim forms. Send in the completed form to the insurance company as soon as possible and tell us as soon as you do.

If your disability insurance covers all of your missed payment, WE CANNOT TRY TO COLLECT WHAT YOU OWE OR FORECLOSE UPON OR REPOSSESS ANY COLLATERAL UNTIL THREE CALENDAR MONTHS AFTER your first missed payment is due or until the insurance company pays or rejects your claim, whichever comes first. We can, however, try to collect, foreclose, or repossess if you have money due and owing us or are otherwise in default when your disability claim is made or if a senior mortgage or lien holder is foreclosing.

If the insurance company pays the claim within the three calendar months, we must accept the money as though you paid on time. If the insurance company rejects the claim within the three calendar months or accepts the claim within the three calendar months as a partial disability and pays less than for a total disability, you will have 35 days from the date that the rejection or the acceptance of the partial disability claim is sent to pay past due payments, or the difference between past due payments and what the insurance company pays for the partial disability, plus late charges. You can contact us, and we will tell you how much you owe. After that time, we can take action to collect or foreclose or repossess any collateral you may have given.

If the insurance company accepts your claim but requires that you send in additional forms to remain eligible for continued payments, you should send in these completed additional forms no later than required. If you do not send in these forms on time, the insurance company may stop paying, and we will then be able to take action to collect or foreclose or repossess any collateral you may have given.

(2) The disclosure required by the insurer shall be substantially in the following form:

CLAIM PROCEDURE

Send in the completed form to the insurance company as soon as possible and tell your creditor as soon as you do.

If your disability insurance covers all of your missed payments, YOUR CREDITOR CANNOT TRY TO COLLECT WHAT YOU OWE OR FORECLOSE UPON OR REPOSSESS ANY COLLATERAL UNTIL THREE CALENDAR MONTHS AFTER your first missed payment is due or until the insurance company pays or rejects your claim, whichever comes first. Your creditor can, however, try to collect, foreclose, or repossess if you have money due and owing or are otherwise in default when your disability claim is made or if a senior mortgage or lien holder is foreclosing.

If the insurance company pays the claim within the three calendar months, your creditor must accept the money as though you paid on time. If the insurance company rejects the claim within the three calendar months or accepts the claim within the three calendar months as a partial disability and pays less than for a total disability, you will have 35 days from the date that the rejection or the acceptance of the partial disability claims was sent to pay past due payments, or the difference between past due payments and what the insurance company pays for the partial disability, plus late charges. You can contact your creditor who will tell you how much you owe. After that time, your creditor can take action to collect or foreclose or repossess any collateral you may have given.

If the insurance company accepts your claim, but requires that you send in additional forms to remain eligible for continued payments, you should send in these completed additional forms no later than required. If you do not send in these forms on time, the insurance company may stop paying, and your creditor will then be able to take action to collect or foreclose or repossess any collateral you have given.

(g) If a debtor does not make a payment for which the debtor claims disability coverage arising from a then current disability and if the creditor, after sending the debtor notice of the debtor's delinquency, invokes any creditor's remedy because of such nonpayment without knowledge of the debtor's claim of disability coverage, subject to this title, the following provisions shall apply:

(1) Upon receiving notice of the debtor's claim, the creditor shall not invoke any further creditor's remedy during the remainder of the claim period and the period provided in subdivision (e).

(2) Upon receiving notice of the debtor's claim, the creditor shall rescind every creditor's remedy that has been invoked relating to the delinquency for which coverage is claimed, except that the creditor shall not be obligated to restore property which has been sold in a bona fide lawful sale to any person not related by common ownership or control to the creditor.

(3) The debtor shall be liable for costs and expenses actually incurred in connection with the invocation or rescission of any

creditor's remedy.

(4) The creditor shall not be in violation of this title and shall not be liable under subdivision (i) provided the creditor complies with paragraphs (1) and (2) of this subdivision.

(h) The rights and remedies afforded debtors by this title shall be cumulative to each other and to all other rights and remedies which the debtors may have under other laws.

(i) The debtor may bring an action for damages, equitable relief, or other relief for any violation of this title.

1812.403. A creditor may invoke any creditor's remedy 15 days after receiving notice that the insurer has ceased making payments on a credit disability insurance claim because of the debtor's failure to timely submit any forms required by the insurer for recertification of a temporary disability.

1812.404. This title shall apply to a creditor only if the creditor, the predecessor to the right, title, or interest of the creditor, or the representative of either of them directly arranges or participates in the sale or receives a commission or other compensation for the sale of credit disability insurance to the debtor.

1812.405. This title shall not prohibit a creditor from invoking any creditor's remedy as a result of a debtor's nonpayment when due of any amount obtained under an open-end credit plan, as hereafter defined, after the debtor has given notice of a disability claim unless the nonpayment is related to a covered disability then affecting the debtor other than the disability previously claimed. The creditor's termination of the open-end credit plan because the debtor does not meet the creditor's customary credit standards at the time the debtor notifies the creditor of the disability claim is not a creditor's remedy.

An "open-end credit plan" means credit extended by a creditor under a plan in which the creditor reasonably contemplates repeated transactions, the creditor may impose a finance charge from time to time on an outstanding unpaid balance, and the amount of credit that may be extended to the debtor during the term of the plan (up to any limit set by the creditor) is generally made available to the extent that any outstanding balance is repaid.

1812.406. This title shall not apply to credit disability insurance covering a key person, as hereinafter defined, which a creditor requires as a condition to making a loan of at least twenty-five thousand dollars ($25,000) to be used in the operation of a business in which the key person is employed or has an ownership interest.

For the purposes of this section, a "key person" is a person who the creditor and the debtor or debtors mutually agree must be involved in the operation of the business to assure its success.

1812.407. The provisions of this title shall apply to the nonpayment of any sum which becomes due on or after April 1, 1984, and for which the debtor claims disability coverage.

1812.408. Any waiver by the debtor of the provisions of this title shall be void and unenforceable.

1812.409. If any provision of this title or the application thereof to

any person or circumstance is held to be unconstitutional, the remainder of the title and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 2. Section 779.30 is added to the Insurance Code, to read:

779.30. An individual policy or group certificate may exclude from credit disability insurance coverage only those preexisting illnesses, diseases or physical conditions for which the debtor actually received medical advice, consultation, or treatment both within six months before and six months after the effective date of the debtor's coverage and which result in disability commencing within two years of such effective date. This provision shall not preclude the exclusion of other preexisting diseases or physical conditions by name or specific description.

SEC. 3. Section 779.31 is added to the Insurance Code, to read:

779.31. The debtor shall have the right to terminate credit life insurance or credit disability insurance at any time for any reason upon notice to the creditor. A refund shall be paid or credited as provided in Section 779.14 or by the regulation of the commissioner. If the premium refund is paid to the creditor, the creditor shall credit the debtor's account with the refund and any interest or finance charge adjustment as provided in the credit agreement.

SEC. 4. Section 10127.5 is added to the Insurance Code, to read:

10127.5. Every application for, certificate, and policy of credit life or credit disability insurance shall set forth a statement in bold capital letters indicating that any preexisting health condition of the applicant may render the coverage void, if that is the case.

For the purpose of this section, "credit life or credit disability insurance" means insurance on the life or health of a borrower sold by a creditor to provide for repayment of the amount of a loan or other extension of credit in the event of the debtor's death or disability as defined in the policy.

CHAPTER 974

An act to amend, add, and repeal Section 2714 of the Unemployment Insurance Code, relating to government records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Section 2714 of the Unemployment Insurance Code is amended to read:

2714. All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part or as provided herein, or to the extent necessary for the

proper administration of public social services pursuant to the Welfare and Institutions Code, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his disability. Such records are not admissible in evidence in any action or special proceeding other than one arising under this division or one arising under 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. The department may reveal its records to the Director of Social Services or his representatives, and may make available to the Department of Rehabilitation all records in the case file of a claimant, but such information shall remain confidential and shall not be disclosed except as provided herein. The department shall not make available to the Department of Rehabilitation any records in the case file of a claimant who requests that these records not be made available to the Department of Rehabilitation, and shall provide each claimant an opportunity to make this request when a claim for disability benefits is made.

This section shall remain in effect until January 1, 1986, and on that date is repealed.

SEC. 2. Section 2714 is added to the Unemployment Insurance Code, to read.

2714. All medical records of the department obtained under this part, except to the extent necessary for the proper administration of this part or as provided herein, or to the extent necessary for the proper administration of public social services pursuant to the Welfare and Institutions Code, shall be confidential and shall not be published or be open to public inspection in any manner revealing the identity of the claimant, or the nature or cause of his disability. Such records are not admissible in evidence in any action or special proceeding other than one arising under this division or one arising under 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. The department may reveal its records to the Director of Social Services or his representatives, and may reveal the identity only of the claimant to the Department of Rehabilitation, but such information shall remain confidential and shall not be disclosed except as provided herein.

This section shall become operative on January 1, 1986.

SEC. 3. The Department of Rehabilitation shall prepare and submit to the Assembly Finance and Insurance Committee and the Senate Industrial Relations Committee no later than January 1, 1985, a report on the effectiveness of 1981 and 1982 pilot programs which referred disability insurance claimants to the department. The department shall submit a copy of the report to the Employment Development Department for review and comment.

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 provision of services by the Department of Rehabilitation at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 975

An act to amend Sections 18609, 18610, 18622, 18673, 18680, and 18690 of, and to add Section 18676 to, the Business and Professions Code, relating to boxing and wrestling.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Section 18609 of the Business and Professions Code is amended to read:

18609. (a) Except as otherwise provided by this section, "boxing," as used in this chapter, includes kickboxing. The provisions of Sections 18736, 18737, 18738, 18738.5, 18739, 18740, 18741, and Article 10 (commencing with Section 18800) shall not apply to kickboxing.

(b) As used in this chapter, "kickboxing" means a form of boxing in which blows are delivered with any part of the arm below the shoulder, including the hand, and any part of the leg below the hip, including the foot.

(c) Rules and regulations of the commission relating to professional boxing shall apply to kickboxing, except where specifically excluded by the commission's regulations.

SEC. 2. Section 18610 of the Business and Professions Code is amended to read:

18610. (a) Except as otherwise provided by this section, "boxing," as used in this chapter, includes professional and amateur full-contact karate. The provisions of Sections 18685, 18736, 18737, 18738, 18738.5, 18739, 18740, 18741, and Article 10 (commencing with Section 18800) shall not apply to professional or amateur full-contact karate.

(b) As used in this chapter, "professional or amateur full-contact karate" means any form of full-contact martial arts, including, but not limited to, full-contact kungfu, full-contact tae kwon-do, or any other form of martial arts or self-defense conducted on a full-contact basis in a contest, match, or exhibition where weapons are not used.

(c) As used in this chapter, "full contact" means the use of full unrestrained physical force in a martial arts contest.

(d) As used in this chapter, "light contact" means the use of

controlled martial arts techniques whereby contact to the body is permitted in a restrained manner and no contact to the face is permitted.

(e) As used in this chapter, "noncontact" means that no contact occurs between either contestant.

(f) Rules and regulations of the commission relating to professional and amateur boxing shall apply, respectively, to professional and amateur full-contact karate, except where specifically excluded by the commission's regulations.

SEC. 3. Section 18622 of the Business and Professions Code is amended to read:

18622. Five members of the commission constitute a quorum for the transaction of business. The affirmative vote of a majority of those commissioners present at a meeting of the commission constituting at least a quorum is necessary to render a decision.

SEC. 4. Section 18673 of the Business and Professions Code is amended to read:

18673. The commission may license clubs to conduct, hold, or give, and shall license referees, judges, matchmakers, announcers, ticket sellers, box-office employees, and timekeepers, and may license assistant matchmakers, doormen, ushers, and corporation treasurers, to participate in, or be employed in connection with, professional or amateur boxing contests, sparring or wrestling matches, or wrestling exhibitions.

No club may conduct, hold, or give, and no person performing tasks for which licensure is required by the commission may participate in, or be employed in connection with, any such boxing contest, sparring or wrestling matches, or wrestling exhibitions unless the club or person has been licensed for that purpose by the commission.

SEC. 5. Section 18676 is added to the Business and Professions Code, to read:

18676. The commission shall prescribe standards for the licensure of any persons required to be licensed by this chapter or by the commission's regulations.

SEC. 6. 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 and judges, sixty dollars ($60); amateur boxing referees and judges, twenty-five dollars ($25); timekeepers, announcers, ticket sellers, and box-office employees, twenty-five dollars ($25); professional boxers, twenty-five dollars ($25); professional wrestlers, twenty-five dollars ($25); managers, sixty dollars ($60); trainers and seconds, twenty-five dollars ($25); matchmakers, one hundred dollars ($100); assistant matchmakers, seventy-five dollars ($75); wrestling booking agents, one hundred dollars ($100). The charge for a duplicate of a license shall be ten dollars ($10).

Every license shall expire at midnight on December 31 of the year in which such license is issued.

SEC. 7. Section 18690 of the Business and Professions Code is amended to read:

18690. (a) Before any license is granted to any club to conduct, hold, or give a boxing contest or a sparring match, other than an amateur boxing contest or sparring match, or to conduct, hold, or give a wrestling match or a wrestling exhibition, the applicant therefor shall file a bond with the commission, in an amount determined by the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of the taxes herein imposed. Only one such bond shall be required of a club regardless of the number of licenses held as long as no two events are staged by that club on the same date.

(b) Before any license is granted to any club to conduct, hold, or give an amateur boxing contest, sparring or wrestling match for which an admission fee is received, the applicant therefor shall file a bond of not less than one thousand dollars ($1,000) with the commission, conditioned for the faithful performance by the club of the provisions of this chapter and the payment of taxes herein imposed. Only one such bond shall be required of a club regardless of the number of licenses held as long as no two events are staged by that club on the same date.

The professional and amateur club bonds shall guarantee, in order of priority, the payment of all taxes due and payable to the state, the payment of contributions for medical insurance or for an emergency medical fund, and to the pension and disability fund, the payment of the purses to the competitors, and the repayment to consumers of purchased tickets. The circumstances and allocations of bond payment shall be determined by the commission.

CHAPTER 976

An act to amend and repeal Section 8 of Chapter 1192 of the Statutes of 1979, relating to subdivisions.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 8 of Chapter 1192 of the Statutes of 1979 is amended to read:

Sec. 8. (a) Except as provided in subdivision (b):

(1) Any sales made pursuant to a subdivision public report hereafter issued by the Department of Real Estate for a stock cooperative conversion shall not be deemed invalid under the provisions of this act, if the application for that public report,

including payment of an appropriate fee, was made prior to January 1, 1980; provided that the stock cooperative conversion occurred in the jurisdiction of governmental agencies which did not regulate such conversions by legislative action.

(2) Paragraph (1) shall not apply to stock cooperative conversions which occur in the jurisdiction of governmental agencies which by legislative action regulated such conversions under the provisions of the Subdivision Map Act prior to January 1, 1980. Governmental agency regulation of such conversions under the provisions of the Subdivision Map Act, which was exercised pursuant to a legislative enactment prior to January 1, 1980, shall not be invalidated by this section; provided, that no such regulation enacted after July 1, 1979, shall affect a stock cooperative conversion if the application for that conversion's public report, including payment of an appropriate fee, was made prior to July 1, 1979.

(b) If the application for a subdivision public report for a stock cooperative conversion in a general law city, including payment of an appropriate fee, was made prior to September 30, 1979, and the general law city did not by legislative action regulate the conversion under the provisions of the Subdivision Map Act prior to the application for the subdivision public report, including payment of an appropriate fee, the provisions of this act shall not affect the stock cooperative conversion and the Real Estate Commissioner shall, if the conversion meets all applicable requirements of Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code, issue the public report for the conversion.

However, a stock cooperative conversion described in this subdivision shall, as a condition of the issuance of the public report, meet the requirements of the provisions of Section 66427.1 of the Government Code without the requirement of obtaining a final map approval of the stock cooperative conversion.

This section shall become inoperative on June 30, 1984, and as of January 1, 1985, is repealed, unless a later enacted statute, which becomes effective on or before June 30, 1984, deletes or extends the date on which it becomes inoperative and is repealed.

CHAPTER 977

An act to amend Sections 14155, 15200, 15201, and 15202 of, and to add Section 14201.5 to, the Financial Code, relating to credit unions.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 14155 of the Financial Code is amended to read:

14155. Upon reasonable notice and opportunity to be heard, the commissioner may deny the application for a certificate or disapprove a merger or an expansion of the field of membership of an existing credit union for any of the following reasons:

(a) The field of membership of the applicant is contrary to the principles of organizing credit unions based on common bond of occupation, association, or groups within a well-defined neighborhood, community or rural district.

(b) The field of membership substantially encroaches upon that of an existing credit union to such an extent that it will probably impair the successful operation of either credit union.

(c) The number of persons eligible for membership is less than 200.

(d) A false statement of a material fact has been made in the application for certificate.

(e) Any officer, director, or committee member of the applicant has, within the last 10 years, been (1) convicted of or pleaded nolo contendere to a crime, or (2) committed any act involving dishonesty, fraud, or deceit, which crime or act is substantially related to the qualifications, functions, or duties of a person engaged in business in accordance with the provisions of this division.

(f) The applicant or any officer, director, or committee member of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of a foreign jurisdiction.

(g) The applicant's showing as to the economic feasibility of the proposed credit union is inadequate.

SEC. 2. Section 14201.5 is added to the Financial Code, to read:

14201.5. (a) For the purpose of preventing substantial encroachment upon an existing credit union when such encroachment will probably impair the successful operation of that credit union and which may have, among other results, an adverse effect on the National Credit Union Share Insurance Fund or the California Credit Union Share Guaranty Corporation, the Commissioner of Corporations and the Regional Director of Region VI of the National Credit Union Administration, upon the implementation of a reciprocal notice procedure, shall provide notice to the other regulatory agency when authorizing a new credit union or expanding the field of membership of an existing credit union in this state. The commissioner shall provide notice to all California credit unions of the actions taken by the Regional Administrator of Region VI of the National Credit Union Administration when the National Credit Union Administration proposes to charter a new credit union or proposes to expand the field of membership of an existing credit union in this state.

(b) The commissioner shall not be liable for any injury resulting

from a failure to provide notice as required by this section.

SEC. 3. Section 15200 of the Financial Code is amended to read:

15200. Any credit union may, with the approval of the commissioner, merge with another credit union or with a central credit union, under the charter of such central credit union.

SEC. 4. Section 15201 of the Financial Code is amended to read:

15201. (a) The merger shall be made pursuant to any plan agreed upon by the majority of the board of directors of each credit union joining in the merger, and approved by the affirmative vote of at least a majority of the members of the merging credit union, in person or by proxy, at meetings of the members called for that purpose or by written consent of a majority of the members of such merging credit union.

(b) The commissioner may approve a merger according to the plan agreed upon by the majority of the board of directors of each credit union, as set forth in subdivision (a), if the plan of merger is approved by less than a majority of the entire membership as provided in this section if the commissioner finds, upon the written and verified application filed by the board of directors, that (1) notice of the meeting called to consider the merger or the ballot for written vote on the merger was mailed to each member entitled to vote upon the question, (2) such notice or ballot disclosed the purpose of the meeting or the written vote, (3) such notice or ballot informed the membership that approval of the merger might be sought pursuant to this section, and (4) a majority of the votes cast upon the question were in favor of the merger.

(c) Notwithstanding subdivisions (a) and (b), the commissioner may approve a merger without a vote of the membership of the merging credit union if a majority of the members of the board of directors of the surviving credit union approves the merger, the disappearing credit union is in danger of insolvency and the merger would reduce the risk or avoid a threatened loss to the California Credit Union Share Guaranty Corporation, or other form of share guaranty or insurance approved by the commissioner. For purposes of this chapter, a credit union is insolvent when, from the most recent available financial statements, it can be shown that the total amount of its shares exceeds the present cash value of its assets after providing for liabilities unless:

(1) It is determined by the commissioner that the facts that caused the deficient share-asset ratio no longer exist; and

(2) The likelihood of further depreciation of the share-asset ratio is not probable; and

(3) The return of the share-asset ratio to its normal limits within a reasonable time for the credit union concerned is probable; and

(4) The probability of a further potential loss is negligible to the California Credit Union Share Guaranty Corporation, or other form of share guaranty or insurance approved by the commissioner.

SEC. 5. Section 15202 of the Financial Code is amended to read:

15202. After the agreement by the directors and approval by the

members of the merging credit union of the plan of merger, as provided in Section 15201, each credit union shall execute a certificate of merger as an officers' certificate pursuant to Section 5062 of the Corporations Code which shall set forth:

(a) That the plan of merger has been approved by the board of directors.

(b) That the plan of merger has been duly approved by any required vote of the members pursuant to Section 15201.

(c) The total number of members of the credit union. A copy of the plan of merger and of the written approval thereof by the commissioner shall be annexed to the certificate of merger.

CHAPTER 978

An act to amend Section 1141.11 of the Code of Civil Procedure, relating to judicial arbitration, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 20, 1983 Filed with Secretary of State September 21, 1983]

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, San Bernardino, Santa Barbara, and Ventura, actions in which the amount in controversy does not exceed twenty-five thousand dollars ($25,000) shall be submitted to arbitration.

(f) In any county, other than a county specified in subdivision (e), in which there is provision for judicial arbitration pursuant to this chapter, whether by statute or local rule, the board of supervisors, upon adoption of a resolution, may require actions in which the amount in controversy does not exceed twenty-five thousand dollars ($25,000) to be submitted to arbitration.

SEC. 2. The provisions of this act, shall be applicable to actions pending on or filed after its effective date.

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 Judicial Council is charged with the responsibility of making recommendations to the Governor and Legislature to improve the administration of justice. (Art. VI, Section 6, California Constitution). The council has recommended that the monetary amount in controversy, which determines whether a case will be submitted to arbitration, should be increased to twenty-five thousand dollars ($25,000). In order to authorize counties which have judicial arbitration programs to increase the jurisdictional scope of the judicial arbitration program in their respective counties to twenty-five thousand dollars ($25,000) as soon as possible, it is necessary that this act go into effect immediately.

CHAPTER 979

An act to add Section 1463.8 to the Penal Code, relating to the disposition of fines and forfeitures.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 1463.8 is added to the Penal Code, to read:

1463.8. Notwithstanding the provisions of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be credited, once a month, to any police protection district for which the county treasurer is the depositary an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested or notified by a member of the police department or fire department of the district, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

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 980

An act to amend Section 22348 of, and to add Sections 13200.5, 13355, and 42000.1 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Section 13200.5 is added to the Vehicle Code, to read:

13200.5. Whenever any person licensed under this code is convicted of a violation of subdivision (b) of Section 22348, the court shall, unless this code makes mandatory a revocation by the department, suspend the privilege of the person to operate a motor vehicle for a period of not to exceed 30 days.

SEC. 2. Section 13355 is added to the Vehicle Code, to read:

13355. The department shall immediately suspend the privilege of any person to operate a motor vehicle upon receipt of a duly certified abstract of the record of any court showing that the person has been convicted of a violation of subdivision (b) of Section 22348, or upon a receipt of a report of a judge of a juvenile court, a juvenile traffic hearing officer, or a referee of a juvenile court showing that the person has been found to have committed a violation of subdivision (b) of Section 22348 under the following conditions and for the periods, as follows:

(a) Upon a conviction or finding of an offense under subdivision (b) of Section 22348 which occurred within three years of a prior offense resulting in a conviction of an offense under subdivision (b) of Section 22348, the privilege shall be suspended for a period of six months, or the privilege shall be restricted for six months to necessary travel to and from the person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving within the person's scope of employment.

(b) Upon a conviction or finding of an offense under subdivision (b) of Section 22348 which occurred within five years of two or more prior offenses resulting in convictions of offenses under subdivision (b) of Section 22348, the privilege shall be suspended for a period of one year, or the privilege shall be restricted for one year to necessary travel to and from the person's place of employment and, if driving a motor vehicle is necessary to perform the duties of the person's employment, restricted to driving within the person's scope of employment.

SEC. 3. Section 22348 of the Vehicle Code is amended to read:

22348. (a) Notwithstanding Section 22349, 22356, or any other provision of this chapter to the contrary, no person shall drive a vehicle upon a highway at a speed greater than 55 miles per hour.

(b) Any person who violates subdivision (a) by driving a vehicle upon a highway at a speed greater than 100 miles per hour is guilty of an infraction punishable, as follows:

(1) Upon a first conviction of a violation of this subdivision, by a fine of not to exceed five hundred dollars ($500). The court may also suspend the privilege of the person to operate a motor vehicle for a period not to exceed 30 days pursuant to Section 13200.5.

(2) Upon a conviction under this subdivision of an offense which occurred within three years of a prior offense resulting in a conviction of an offense under this subdivision by a fine of not to exceed five hundred dollars ($500). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor Vehicles pursuant to subdivision (a) of Section 13355.

(3) Upon a conviction under this subdivision of an offense which occurred within five years of two or more prior offenses resulting in convictions of offenses under this subdivision by a fine of not to exceed five hundred dollars ($500). The person's privilege to operate a motor vehicle shall be suspended by the Department of Motor

Vehicles pursuant to subdivision (b) of Section 13355.

(c) Any vehicle subject to the provisions of Section 22406 shall be driven in a lane designated pursuant to Section 21655, or if no such lane has been designated, in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb. When overtaking and passing another vehicle proceeding in the same direction, such drivers shall use either the designated lane, the lane to the immediate left of the right-hand lane, or the right-hand lane for traffic as permitted under the provisions of this code. If, however, specific lane or lanes have not been designated on a divided highway having four or more clearly marked lanes for traffic in one direction, any such vehicle may also be driven in the lane to the immediate left of such right-hand lane, unless otherwise prohibited under the provisions of this code. This subdivision shall not apply to a driver who is preparing for a left- or right-hand turn or who is in the process of entering into or exiting from a highway or to a driver who must necessarily drive in a lane other than the right-hand lane to continue on his intended route.

(d) This section shall remain in effect 120 days from the date that the 55-mile-per-hour national maximum speed limit, as specified in Section 154 of Title 23 of the United States Code, is repealed.

SEC. 4. Section 42000.1 is added to the Vehicle Code, to read:

42000.1. Notwithstanding Section 42001, every person convicted of an infraction for a violation described in subdivision (b) of Section 22348 shall be punished by a fine not exceeding five hundred dollars ($500).

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 981

An act to amend Section 1714.1 of the Civil Code, relating to liability.

[Approved by Governor September 20, 1983. Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 1714.1 of the Civil Code is amended to read:

1714.1. (a) Any act of willful misconduct of a minor which results in injury or death to another person or in any injury to the property

of another shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.

The joint and several liability of the parent or guardian having custody and control of a minor under this subdivision shall not exceed ten thousand dollars ($10,000) for each tort of the minor, and in the case of injury to a person, imputed liability shall be further limited to medical, dental and hospital expenses incurred by the injured person, not to exceed ten thousand dollars ($10,000). The liability imposed by this section is in addition to any liability now imposed by law.

(b) Any act of willful misconduct of a minor which results in the defacement of property of another with paint or a similar substance shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, including court costs, and attorney's fees, to the prevailing party, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct, not to exceed ten thousand dollars ($10,000) for each tort of the minor.

SEC. 2. This act is part of the Crime Victim Restitution Program of 1983 in that it increases the ability of victims of juvenile crime to obtain restitution by doubling parental liability for crimes committed by minors.

CHAPTER 982

An act to add and repeal Article 8 (commencing with Section 6590) of Chapter 5 of Part 1 of Division 6 of the Fish and Game Code, relating to fishing.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 21, 1983.]

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

SECTION 1. Article 8 (commencing with Section 6590) is added to Chapter 5 of Part 1 of Division 6 of the Fish and Game Code, to read:

Article 8. Ocean Fishery Research

6590. The Legislature finds and declares all of the following:

(a) Declines in various southern California marine species of fish have adversely affected the sport and commercial fishing industry.

(b) Efforts to enhance these species through artificial

propagation, rearing, and stocking need to be investigated.

(c) Research and development of artificial propagation, rearing, and stocking of some marine species are needed and can best be pursued by established, appropriate, academic institutions and any private institute or business with demonstrated expertise in these fields.

(d) Funding for the research and development is most appropriately borne by a special fund derived from user fees on sport and commercial fishermen who stand to benefit directly from the resurgence of various marine species.

(e) The department has continuing resource management, administrative, and policy review responsibility in marine resources issues.

(f) Campuses of the University of California and the California State University are ideally suited to perform basic and applied research by virtue of their missions, experience, reputations, and ocean proximity.

(g) A program in this field involving the department with the cooperation and assistance of the University of California and the California State University is in the public interest.

6591. For purposes of this article, the following terms shall have the following meanings:

(a) "Account" means the Ocean Fishery Research and Hatchery Account created by this article.

(b) "Program" means the California Ocean Resources Enhancement and Hatchery Program established by this article.

6592. There is hereby established in state government the California Ocean Resources Enhancement and Hatchery Program for the purpose of supporting basic and applied research on the artificial propagation, rearing, stocking, and distribution of adversely affected marine fish species which are important to sport and commercial fishing in the ocean waters off the coast of California south of a line extending due west from Point Arguello.

6593. The program is administered by the director with the advice and assistance of the advisory panel created in Section 6594. The director may appoint, with the advice and consent of the advisory panel, a program manager to assist in administering the program.

6594. To assist the director in establishing policy direction for research projects to be supported from the account, there is hereby created in the department an Ocean Resources Enhancement and Hatchery Advisory Panel. The panel shall consist of the following members:

(a) One member representing the department.

(b) One member from the University of California, appointed by the president.

(c) One member from the California State University System, appointed by the chancellor.

(d) One member representing persons working in the southern

California gill and trammel net fisheries, appointed by the director from a list of at least three persons submitted by the California Gillnetters Association.

(e) One member representing the southern California commercial passenger fishing vessel industry, appointed by the director from a list of at least three persons submitted by the Sportsfishing Association of California.

(f) One member representing southern California marine sport fishermen, appointed by the director from a list of at least three persons submitted by the National Coalition for Marine Conservation, Pacific Region.

(g) One member representing the California Aquaculture Industry Advisory Committee established pursuant to Section 15700.

6595. (a) The Ocean Fishery Research and Hatchery Account is hereby created in the Fish and Game Preservation Fund. All fees received by the department pursuant to this article shall be deposited in the account and shall be available for appropriation for basic and applied research for purposes of the program.

(b) An amount, not to exceed 15 percent of the total annual revenues deposited in the account, may be appropriated for the administration of the program, including any reasonable and necessary expenses incurred by members of the panel in the discharge of their duties pursuant to this article.

(c) No research project may be financed pursuant to this article unless it has been approved by both the director and a majority of the members of the panel.

6596. (a) In addition to a valid California sport fishing license issued pursuant to Section 7149 and any applicable sport license stamp issued pursuant to this code, a person taking fish from ocean waters south of a line extending due west from Point Arguello for sport purposes shall have permanently affixed to his or her sport fishing license an ocean fishing enhancement stamp which shall be issued upon payment of a fee of one dollar ($1).

(b) In addition to a valid California commercial fishing license issued pursuant to Section 7850 and any applicable commercial license stamp or permit issued pursuant to this code, a person using gill nets or other entangling nets to take fish from ocean waters south of a line extending due west from Point Arguello for commercial purposes shall have permanently affixed to his or her license a commercial ocean fishing enhancement stamp which may be obtained from the department upon payment of a fee of ten dollars ($10).

(c) In addition to a valid California commercial passenger fishing boat license issued pursuant to Section 7920, the owner of any boat or vessel who, for profit, permits any person to fish therefrom, south of a line extending due west from Point Arguello, shall obtain and permanently affix to the license a commercial ocean fishing enhancement stamp which may be obtained from the department upon payment of a fee of ten dollars ($10).

6597. The department may contract with private nonprofit organizations which, prior to January 1, 1984, were conducting research related to the purposes of the program, to conduct research projects pursuant to this article.

6598. Any place at which all or a significant part of the program is conducted shall be named the "California Marine Hatchery Institute."

6599. On or before December 31 of each year, the director shall prepare and submit a report to the Legislature and the Legislative Analyst regarding the effectiveness of the program.

6600. This article 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.

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 infraction.

CHAPTER 983

An act to amend Section 16114 of the Government Code, to amend Sections 100.5, 100.7, and 11005 of the Revenue and Taxation Code, to amend Sections 13365 and 41103.2 of the Vehicle Code, to amend Item 9100-101-001 of the Budget Act of 1983, and to repeal Item 9100-101-064 of the Budget Act of 1983, relating to fiscal affairs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 21, 1983]

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

SECTION 1. Section 16114 of the Government Code, as amended by Chapter 323 of the Statutes of 1983, is amended to read:

16114. (a) For the 1980–81 fiscal year, for the purpose of computing assessed valuation for the purposes of Section 33670 of the Health and Safety Code, there shall be added to the actual assessed valuation as shown on the assessment roll, an amount equal to the assessed valuation of business inventories in the project area in the 1979–80 fiscal year multiplied by the quotient derived by dividing four dollars ($4) by the tax rate applicable within the project area, with the resulting amount to be increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

(b) For the 1981–82 fiscal year and each fiscal year thereafter, for the purpose of computing assessed valuation for the purpose of Section 33670 of the Health and Safety Code, there shall be added to the actual assessed valuation shown on the assessment roll an amount equal to the assessed valuation of business inventories in the project area computed for the prior fiscal year, pursuant to subdivision (a), increased by a percentage equal to the State Reimbursement for Inventory Tax Factor.

(c) Notwithstanding the provisions of subdivision (b), for the 1983–84 fiscal year only, for the purpose of computing assessed valuation for the purposes of Section 33670 of the Health and Safety Code, there shall be added to the actual assessed valuation shown on the assessment roll an amount equal to the assessed valuation of business inventories in the project area computed for the 1982–83 fiscal year, pursuant to subdivision (b).

SEC. 2. Section 100.5 of the Revenue and Taxation Code, as amended by Chapter 323 of the Statutes of 1983, is amended to read:

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

(b) For the 1982–83 fiscal year and each fiscal year thereafter, the Governor's Budget for the prior fiscal year shall contain a base amount for the next succeeding fiscal year determined pursuant to paragraph (2) of subdivision (g). This amount may be changed by the Legislature in the Budget Act for the prior fiscal year, in which case this revised amount shall become the base amount for purposes of this section.

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

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

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

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

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

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

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

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

(g) For purposes of this section:

(1) "Local assistance funds" means:

(A) For local agencies, the funds allocated by the state to local agencies pursuant to Chapter 1.5 (commencing with Section 16110) of Part 1 of Division 4 of Title 2 of the Government Code; Chapter 5 (commencing with Section 11001) of Part 5 (exclusive of trailer coach fees disbursed pursuant to Sections 11003.3 and 11003.4) and Chapter 9 (commencing with Section 30461) of Part 13 of Division 2 of the Revenue and Taxation Code.

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

(2) "Base amount" means, for the fiscal year 1981–82, twenty-one billion five hundred million dollars ($21,500,000,000). For each fiscal year thereafter, "base amount" means the base amount for the prior

year, adjusted annually by the estimated percentage change from the next fiscal year over the current fiscal year in the total state appropriations subject to limitation for purposes of Article XIII B of the California Constitution.

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

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

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

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

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

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

(j) Notwithstanding any other provision of law, the transfer authority in subdivision (c) of Section 14002 and subdivision (d) of Section 14020 of the Education Code shall have no force or effect if the provisions of subdivision (f) are implemented.

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

(*l*) Notwithstanding any other provision of this section, no reduction shall be made to school entities pursuant to this section for the 1983–84 fiscal year.

(m) Notwithstanding any other provision of this section, no reduction shall be made to local agencies pursuant to this section for the 1983–84 fiscal year.

SEC. 3. Section 100.7 of the Revenue and Taxation Code, as added by Chapter 323 of the Statutes of 1983, is amended to read:

100.7. (a) Notwithstanding any other provision of law, to the extent funds are available, the Controller shall reduce the amount of local assistance funds (as defined by Section 100.5) less cigarette tax, which would otherwise be transmitted to cities and counties during the 1983–84 fiscal year.

(b) (1) The Department of Finance shall determine the percentage that "state assistance payments," as defined in Section 95, for each city bears to the total of all such amounts for all cities and shall apply the percentage for each city to four hundred seventy-seven million dollars ($477,000,000).

(2) The Department of Finance shall determine the percentage that the January 1, 1983, population of each city (as determined by the department) bears to the total population of all cities, and shall apply the percentage for each city to four hundred seventy-seven million dollars ($477,000,000).

(3) The Department of Finance shall compute for each city an amount equal to its state assistance payments, as defined in Section 95, multiplied by the quotient of the city's 1983–84 assessed valuation divided by the city's 1978–79 assessed valuation. This amount shall then be reduced by the sum of the amounts which would have been received by the city from state subventions in the 1981–82 fiscal year pursuant to Section 25761 of the Business and Professions Code, Section 4306 of the Public Utilities Code, and subdivision (c) of Section 26483 of the Revenue and Taxation Code, had those provisions been effective for 1981–82.

(4) The Department of Finance shall determine the lesser of the amounts computed in paragraphs (1), (2), and (3).

(5) The Department of Finance shall compute for each city the total of the paragraph (4) amount plus the greater of (A) zero or (B) its paragraph (3) amount minus three times its paragraph (4) amount. This amount shall be the city's reduction in payments amount.

(6) For any city identified by paragraph (8) of subdivision (b) of Section 11005.75, upon written request to the Director of Finance by the official described in subdivision (i) of Section 95, the reduction in payments amount shall be reduced by the amount provided in paragraph (8) of subdivision (b) of Section 11005.75 multiplied by 1.3509726.

(7) For any city identified by paragraph (9) of subdivision (b) of Section 11005.75, upon written request to the Director of Finance by the official described in subdivision (i) of Section 95, the reduction in payments amount shall be reduced by 22.009 percent.

(c) (1) The Department of Finance shall determine the percentage that "state assistance payments," as defined in Section 95, for each county bears to the total of all such amounts for all counties and shall apply the percentage for each county to one hundred five million eight hundred thousand dollars ($105,800,000).

(2) The Department of Finance shall determine the percentage that the January 1, 1983, population of each county (as determined by the department) bears to the total population of all counties and shall apply the percentage for each county to one hundred five million eight hundred thousand dollars ($105,800,000).

(3) The Department of Finance shall compute for each county an amount equal to its state assistance payments, as defined in Section

95, multiplied by the quotient of the county's 1983–84 assessed valuation divided by the county's 1978–79 assessed valuation. This amount shall then be reduced by the sum of the amounts which would have been received by the county from state subventions in the 1981–82 fiscal year pursuant to Section 25761 of the Business and Professions Code, Section 4306 of the Public Utilities Code, and subdivision (c) of Section 26483 of the Revenue and Taxation Code, had those provisions been effective for 1981–82.

(4) The Department of Finance shall determine the lesser of the amounts computed in subparagraphs (1), (2), and (3). This amount shall be the county's reduction in payments amount.

(d) A city and county shall be considered a county for purposes of this section.

(e) (1) For the purposes of subdivision (b), "1983–84 assessed value" shall be determined as follows:

(A) The Department of Finance shall determine for each city the percentage that the amount of change in assessed value between 1978–79 and 1982–83 bears to the total of such assessed value changes for all cities.

(B) The percentage computed in subparagraph (A) shall be applied to the amount of assessed value change between 1982–83 and 1983–84 for all cities, as estimated by the Department of Finance.

(C) The amount computed in subparagraph (B) shall be added to the 1982–83 assessed value.

(2) For the purposes of subdivision (c), "1983–84 assessed value" shall be determined as follows:

(A) The Department of Finance shall determine for each county and city and county the percentage that the amount of change in assessed value between 1978–79 and 1982–83 bears to the total of such assessed value changes for all counties and cities and counties.

(B) The percentage computed in subparagraph (A) shall be applied to the amount of assessed value change between 1982–83 and 1983–84 for all counties and cities and counties, as estimated by the Department of Finance.

(C) The amount computed in subparagraph (B) shall be added to the 1982–83 assessed value.

(3) For purposes of this section, "1978–79 assessed value" shall not include the taxable portion of business inventory assessed value.

(f) Notwithstanding any other provision of law, the amount of the reductions in payments amounts for cities and counties pursuant to this section shall be transferred to the unappropriated surplus of the General Fund.

SEC. 4. Section 11005 of the Revenue and Taxation Code, as amended by Chapter 323 of the Statutes of 1983, is amended to read:

11005. After payment of refunds therefrom and after making the deductions authorized by Section 11003 and reserving such amount as is determined by the Pooled Money Investment Board to be necessary to meet the transfers ordered or proposed to be ordered pursuant to Section 16310 of the Government Code, 81.25 percent of

the balance of all motor vehicle license fees and any other money appropriated by law for expenditure pursuant to this section and deposited to the credit of the Motor Vehicle License Fee Account in the Transportation Tax Fund and remaining unexpended therein at the close of business on the last day of the calendar month shall be allocated by the Controller by the 10th day of the following month in the manner provided by subdivisions (a) and (b). Eighteen and three-quarters percent shall be transferred by the Controller to the unappropriated surplus of the General Fund.

(a) Fifty percent thereof shall be paid to the cities and cities and counties of this state in the proportion that the population of each city or city and county bears to the total population of all cities and cities and counties in this state, as determined by the population research unit of the Department of Finance. For the purpose of this subdivision, the population of each city or city and county is that determined by the last federal decennial or special census, or a subsequent census validated by the population research unit of the Department of Finance or subsequent estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code. In the case of a city incorporated subsequent to the last federal census, or census validated by the population research unit of the Department of Finance, or in the case of an inhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the Controller shall ascertain the population of the city, or the annexed territory, by multiplying the number of registered electors therein by three. In the case of uninhabited unincorporated territory being annexed to a city subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the Controller shall ascertain the population of the annexed territory by the use of any federal decennial or special census, or estimate prepared pursuant to Section 2107.2 of the Streets and Highways Code, or, if no such other estimate or census was made, by multiplying the number of registered electors therein by three two years after the completion of annexation proceedings or at such earlier time as the legislative body may request. In the case of the consolidation of one city with another subsequent to the last federal census, or a subsequent census validated by the population research unit of the Department of Finance, the population of the consolidated city, for the purpose of this subdivision, is the aggregate population of the respective cities as determined by the last federal census, or a subsequent census or estimate validated by the population research unit of the Department of Finance.

(b) Fifty percent thereof shall be paid to the counties and cities and counties of the state in the proportion that the population of each county or city and county bears to the total population of all the counties and cities and counties of the state, as determined by the population research unit of the Department of Finance. For the

purpose of this subdivision, the population of each county or city and county is that determined by the last federal census, or subsequent census validated by the population research unit of the Department of Finance, or as determined by Section 11005.6.

(c) Money disbursed by the Controller to cities and counties pursuant to this section may be used for county or city purposes and may, but need not necessarily, be used for purposes of general interest and benefit to the state.

Population changes based on a federal special census or a subsequent census validated by the Department of Finance shall be accepted by the Controller only if certified to him at the request of the city, city and county, or county for which the census was made and shall become effective on the first day of the month following receipt of such certification.

SEC. 5. Section 13365 of the Vehicle Code is amended to read:

13365. Upon receipt of a notification of a violation of subdivision (a) of Section 40509, the department shall suspend the driving privilege of any person when his or her record contains one or more prior notifications of a violation of subdivision (a) of Section 40509, unless the person's driving privilege is currently suspended under this section.

A suspension under this section shall not be effective before a date 60 days after the date of receipt, by the department, of the notification of the violation of subdivision (a) of Section 40509, and the notice of suspension shall not be mailed by the department before a date 30 days after receipt of the notice of violation.

The suspension shall continue until the suspended person's driver record does not contain any notification of a violation of subdivision (a) of Section 40509.

SEC. 6. Section 41103.2 of the Vehicle Code is amended to read:

41103.2. (a) No warrant for the arrest of a resident of this state may be issued for an offense for which a notice of noncompliance regarding that person has been forwarded to the department pursuant to Section 41103.5, except that when a notice to the department has been returned to the court under Section 4762 or 4764, or recalled by the court under Section 41103.5 or by motion of the court, a warrant may then be issued.

(b) In no case shall the owner of a vehicle involved in a parking offense for which a notice of noncompliance may be forwarded pursuant to Section 41103.5 be made to answer for that offense where the offense took place before the owner purchased the vehicle.

SEC. 7. Item 9100-101-001 of the Budget Act of 1983 (Ch. 324, Stats. 1983) is amended to read:

9100-101-001—For local assistance, Tax Relief 1,099,071,000
Schedule:
(a) 10-Senior Citizens' Property Tax Assistance 1,291,000
(b) 20-Senior Citizens' Property Tax

Deferral Program	7,150,000
(c) 30-Senior Citizens' Renters' Tax Assistance	7,014,000
(d) 40-Personal Property Tax Relief	278,400,000
(e) 50-Homeowners' Property Tax Relief	336,000,000
(f) 60-Subvention for Open Space	13,000,000
(g) 70-Payments to Local Government for Sales and Property Tax Revenue Loss	3,776,000
(h) 80-Renters' Tax Relief	452,370,000
(i) 90-Substandard Housing	70,000

Provisions:

1. Schedule (a) is for property tax assistance to homeowner claimants in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in schedule (a) may be used to make payments to senior citizen renter claimants under schedule (c).
2. Schedule (b) is for property tax postponement and assistance to claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), Division 2 of the Revenue and Taxation Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.
3. Schedule (c) is for property tax assistance to renter claimants, in accordance with the provisions of the Senior Citizens Property Tax Assistance and Postponement Law, Part 10.5 (commencing with Section 20501), of Division 2 of the Revenue and Taxation Code, Franchise Tax Board.

   Any unexpended balance in schedule (c) may be used to make payments to senior citizen homeowner claimants under schedule (a).
4. Schedule (d) is for reimbursement to local taxing authorities for revenue lost by reason of the repeal or reduction of the property tax on the following classes of property affected by the following provisions of the Revenue and Taxation Code: (1) business inventories under Section

219; (2) motion pictures under Section 988; (3) livestock under Sections 5523 and 5546; and (4) wine and brandy under Section 992; Controller.

The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 of the Government Code.

5. Schedule (e) is for reimbursement to local taxing authorities for revenue lost by reason of the homeowners' property tax exemption granted pursuant to Section 3k of Article XIII of the Constitution, Controller. The appropriation made by this schedule shall be in lieu of the appropriation required pursuant to Section 25 of Article XIII of the Constitution and the appropriation for the same purposes contained in Section 16100 of the Government Code.
6. Schedule (f) is for providing reimbursement to local taxing authorities for revenue lost by reason of the assessment of open-space lands under Sections 423, 423.3, and 423.5 of the Revenue and Taxation Code, and in accordance with the provisions of Chapter 3 (commencing with Section 16140) of Part 1 of Division 4 of Title 2 of the Government Code, State Controller. The appropriation made by this schedule shall be in lieu of the appropriation for the same purpose contained in Section 16100 or 16140 of the Government Code, and may not be augmented.
7. Schedule (g) is for reimbursement to local taxing authorities for revenue lost in accordance with the provisions of Sections 2229 and 2230 of the Revenue and Taxation Code, State Controller and, provided that the reimbursement for property tax revenue loss resulting from the restricted valuation of land under a wildlife habitat contract pursuant to Chapter 1165, Statutes of 1973, shall be based on a comparison between the value of the land computed pursuant to Section 423.7 of the Revenue and Taxation Code and the value of the land computed pursuant to Section 110.1 of the Revenue and Taxation Code.
8. Schedule (h) is for transfer by the Controller, as needed, to the Tax Relief and Refund Account, General Fund, for the purpose of providing credits and refunds to renters as required by Section 17053.5 of the Revenue and Taxation Code, Franchise Tax Board.

9. Schedule (i) is for transfer by the Controller to the Local Agency Code Enforcement and Rehabilitation Fund, for the purpose of providing funds to defray costs incurred in the enforcement of local housing code provisions and to fund housing rehabilitation programs for persons and families of low and moderate income as defined in Section 50093 of the Health and Safety Code, to be allocated to local agencies prorated on the basis of their share of disallowed deductions which resulted from the agencies' proceedings.

This amount is in lieu of any statutory requirements.

SEC. 8. Item 9100-101-064 of the Budget Act of 1983 (Ch. 324, Stats. 1983) is repealed.

SEC. 9. For each city for which the amount computed pursuant to paragraph (3) of subdivision (b) of Section 100.7 of the Revenue and Taxation Code is negative, other than those cities described in Section 27.30 of the Budget Act of 1983, there is hereby appropriated from the General Fund to the Controller for allocation to each of those cities an amount equal to the negative of that amount.

SEC. 10. The Legislature finds and declares that it is necessary to examine both the fiscal and programmatic relationships between the state and counties, cities and special districts, and to develop a stable, predictable system of local government finance effective for the 1984–85 fiscal year. It is the intent of the Legislature that in making any adjustments in the programmatic responsibilities of the state and local governments that corresponding adjustments be made in the funding responsibilities for such programs to ensure that local governments are not required to meet new state mandated costs through existing discretionary revenues.

Moreover, it is the intent of the Legislature that, in examining the options for adjusting the fiscal base of local governments, special consideration be given to providing local governments with stable revenue sources which would not be subject to annual state budgetary decisions. It is the further intent of the Legislature that any adjustment made in the revenue base of local agencies, may include, but need not be limited to, an authorization to generate new local revenues, a reduction, elimination, or long-term protection of state subventions, or a transfer of state revenues to local governments.

Finally, it is the intent of the Legislature to conduct hearings during the 1983 Interim Study Recess for the purpose of reviewing the recommendations of the Governor's New Partnership Task Force on State and Local Government, as proposed by the Governor, and for developing, by January 1, 1984, legislation to implement a system of long term local government finance.

SEC. 11. (a) On October 1, 1983, the Director of Finance shall determine the difference between (1) the amount of the reductions

made to cities and counties pursuant to Section 100.7 of the Revenue and Taxation Code for the period July 1, 1983 to September 30, 1983, and (2) the amount paid out of the Motor Vehicle License Fee Account in the Transportation Tax Fund pursuant to Item 9100-101-064 of the Budget Act of 1983 (Chapter 324, Statutes of 1983) for the period July 1, 1983 to September 30, 1983.

(b) Notwithstanding any other provision of law, the amount determined pursuant to subdivision (a) shall be transferred from the Motor Vehicle License Fee Account in the Transportation Tax Fund to the General Fund on October 1, 1983.

SEC. 12. Section 4 of this act shall become operative on November 1, 1983.

SEC. 13. Sections 7 and 8 of this act shall become operative on October 1, 1983.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that this act, which would make statutory changes necessary to provide for local government financing during the 1983–84 fiscal year and to implement the Budget Act of 1983, may take effect for the majority of the 1983–84 fiscal year, it is necessary that this act take effect immediately.

CHAPTER 984

An act relating to public utilities.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. The Legislature finds and declares it is in the best interest of the state to ensure competition in the energy conservation industry because of the innovation, price competition, aggressive marketing, and freedom of entry which characterize competitive industries, and that the energy conservation industry, because its decentralized nature, has the potential to be truly competitive.

The Legislature further finds and declares that the current uncertainty with regard to the role of electrical and gas corporations subject to regulation as public utilities by the Public Utilities Commission with regard to energy conservation development hinders the full-scale development of the energy conservation industry, and therefore requires legislative clarification.

The Legislature further finds and declares that there may be an inherent conflict for a public utility which furnishes gas and electricity on the one hand and installs energy conservation

materials or devices on the other hand, and that it would be detrimental to the energy industry and to the state if privately-owned public utilities used their status as monopolies to dominate the energy conservation industry or exercise unfair market power.

The Legislature further finds and declares that the basis for regulation of public utilities extends to their participation in energy conservation development as well as in the production and delivery of forms of energy derived from conventional sources.

It is, therefore, the intent of the Legislature that the Public Utilities Commission be given a clear and explicit mandate to regulate the involvement of electrical and gas corporations in energy conservation development, and to ensure that the energy conservation industry develops in a manner which is competitive and free from the potential dominance of regulated electrical and gas corporations.

CHAPTER 985

An act to amend Sections 99243 and 99243.5 of the Public Utilities Code, relating to transit.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 99243 of the Public Utilities Code is amended to read:

99243. (a) The Controller, in cooperation with the department and the operators, shall design and adopt a uniform system of accounts and records, from which the operators shall prepare and submit annual reports of their operation to the transportation planning agencies having jurisdiction over them and to the Controller within 90 days of the end of the fiscal year. The report shall specify (1) the amount of revenue generated from each source and its application for the prior fiscal year and (2) the data necessary to determine which section, with respect to Sections 99268.1, 99268.2, 99268.3, 99268.4, 99268.5, and 99268.9, the operator is required to be in compliance with in order to be eligible for funds under this article.

(b) As a supplement to the annual report prepared pursuant to subdivision (a), each operator shall include an estimate of the amount of revenues to be generated from each source and its proposed application for the next fiscal year.

(c) The Controller shall instruct the county auditor to withhold payments from the fund to any operator which has not submitted its annual report to the Controller within the time specified by subdivision (a).

(d) In establishing the uniform system of accounts and records, the Controller shall include the data required by the United States Department of Transportation, the department, and the Business and Transportation Agency.

SEC. 2. Section 99243.5 of the Public Utilities Code, is amended to read:

99243.5. On the basis of data in the annual reports submitted pursuant to Section 99243 and the information submitted pursuant to Section 99406 to the Controller, the Controller shall submit, within three months of receiving such data and information, an annual report to the Legislature on the revenues available and expenditures made under this chapter.

The Controller shall take such steps as he deems necessary to insure that such data and information submitted are adequate and accurate.

CHAPTER 986

An act to amend Sections 5204, 5304, 9259, and 9800 of, to amend, repeal, and add Sections 5301 and 8005 of, and to add Section 8164 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 5204 of the Vehicle Code is amended to read:

5204. (a) Except as provided by subdivision (b), a tab shall indicate the year number for which issued and a tab shall indicate the month of expiration, which tabs, stickers, or other suitable devices shall be attached to the rear license plate assigned to the vehicle for the last preceding registration year in which license plates were issued, and, when so attached, the license plate with the tabs, stickers, or other devices shall, for the purposes of this code, be deemed to be the license plate for the ensuing registration year; except that truck tractors shall, and vehicles having an unladen weight of 10,000 pounds or more shall, display the tabs, stickers, or other devices upon the front license plate assigned to such vehicle.

(b) The requirement of subdivision (a) that the tab indicate the year number for which issued and the month of expiration does not apply to fleet vehicles subject to Article 9.5 (commencing with Section 5300).

SEC. 1.5. Section 5301 of the Vehicle Code is amended to read:

5301. (a) Notwithstanding any other provision of this code and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, the registered owner or lessee of a fleet

of vehicles consisting of commercial motor vehicles or commercial trailers or passenger automobiles may, upon payment of appropriate fees, apply to the department for permanent license plates or decals and registration cards.

(b) Fleets shall consist of at least 500 vehicles to qualify for this program. However, the director may conduct a pilot program to provide for permanent fleet registration through an association providing a combination of fleets of vehicles of more than 1,000 vehicles and with no individual fleet of less than 300 vehicles. An association submitting an application for participation in the pilot program shall provide within the overall application a listing identifying the owner of each fleet and the vehicles within each fleet. Identification of the vehicles as provided in this article shall apply to the ownership of the vehicles and not the association submitting the application.

(c) 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 enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 5301 of the Vehicle Code, as added by Section 2 of Chapter 695 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 5304 of the Vehicle Code is amended to read:

5304. Renewal fees shall be paid pursuant to a schedule established by the department. Submission of renewal fees by an association pursuant to subdivision (b) of Section 5301 shall be specific as to each fleet and vehicle thereof covered by the renewal application.

SEC. 2.5. Section 8005 of the Vehicle Code is amended to read:

8005. The Reciprocity Commission may examine the legal requirements of motor vehicle registration, license, and weight fee statutes of foreign jurisdictions which grant reciprocal privileges to out-of-state owners or persons. It may determine, by such examination, and declare the extent and nature of the reciprocal exemptions, benefits, and privileges to which owners of foreign commercial vehicles or other persons from those jurisdictions are entitled under the laws of this state.

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 enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 8005 of the Vehicle Code, as added by Section 2 of Chapter 3 of the Statutes of 1959, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 3. Section 8164 is added to the Vehicle Code, to read:

8164. Upon application for transfer of ownership of a fleet of vehicles registered as provided in this article, the department shall

permit reregistration in the new owner's name without reassessing the registration, weight, and vehicle license fees, provided the application of the new ownership is for the same fleet and interstate operation as the previous owner.

SEC. 4. Section 9259 of the Vehicle Code is amended to read:

9259. A fee of two dollars ($2) shall be paid for each sticker or device issued under Section 8157 or for each vehicle in a fleet upon transfer of ownership as provided in Section 8164.

SEC. 5. Section 9800 of the Vehicle Code is amended to read:

9800. (a) Payments for any of the following, and any interest, penalties or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Bail for offenses relating to the standing or parking of a vehicle.

(b) Notwithstanding the provisions of subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated without current year registration or valid California permits or registration, an amount equal to the minimum registration fees or transfer fees, and any penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit which was pulling the dolly, semitrailer, or trailer. However, this subdivision shall not be applicable if the citation is issued at a scale operated by the Department of the California Highway Patrol and registration for the vehicle can be issued there immediately upon payment of the fees due.

(c) Every lien arising under this section shall expire three years from the date the fee, tax, or bail first became due.

(d) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities are agents of the department for the purposes of collecting fees and taxes which are a lien on commercial vehicles.

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may possess and sell trip permits approved by the department.

SEC. 6. Section 9800 of the Vehicle Code is amended to read:

9800. (a) Payments for any of the following, and any interest, penalties, or service fees added thereto, required to register or transfer the registration of a vehicle, constitute a lien on the vehicle on which they are due or which was involved in the offense, and on any other vehicle owned by the owner of that vehicle:

(1) Registration fees.

(2) Transfer fees.

(3) License fees.

(4) Use taxes.

(5) Bail for offenses relating to the standing or parking of a vehicle.

(b) Notwithstanding the provisions of subdivision (a), if a person is cited for a foreign registered auxiliary dolly, semitrailer, or trailer having been operated without current year registration or valid California permits or registration, an amount equal to the minimum registration fees or transfer fees, and any penalty added thereto, from the date they became due, shall, by election of the power unit operator, constitute a lien upon the California registered power unit which was pulling the dolly, semitrailer, or trailer. However, this subdivision shall not be applicable if the citation is issued at a scale operated by the Department of the California Highway Patrol and registration for the vehicle can be issued there immediately upon payment of the fees due.

(c) Every lien arising under this section shall expire three years from the date the fee, tax, or bail first became due.

(d) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities are agents of the department for the purposes of collecting fees and taxes which are a lien on commercial vehicles.

(e) Employees and members of the Department of the California Highway Patrol assigned to commercial vehicle scale facilities may possess and sell trip permits approved by the department.

SEC. 7. The Department of Motor Vehicles shall submit an interim report on the implementation of this act to both houses of the Legislature on or before July 1, 1985.

SEC. 8. Section 6 of this bill incorporates amendments to Section 9800 of the Vehicle Code proposed by both this bill and Assembly Bill 23. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 9800 of the Vehicle Code, and (3) this bill is enacted after Assembly Bill 23, in which case Section 5 of this bill shall not become operative.

CHAPTER 987

An act to add Section 31302 to the Vehicle Code, relating to transportation.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 31302 is added to the Vehicle Code, to read:

31302. Although not classified as explosives, anhydrous hydrazine, fuming nitric acid, and liquid nitrogen tetroxide, when transported in cargo tanks, shall be subject to Sections 31602, 31607,

31608, 31609, 31611, 31615, and 31618 and subdivisions (a), (b), (c), and (g) of Section 31614.

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 988

An act to add Chapter 14 (commencing with Section 11535) to Part 2 of Division 2 of the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Chapter 14 (commencing with Section 11535) is added to Part 2 of Division 2 of the Insurance Code, to read:

CHAPTER 14. CONVERSION OF AN INCORPORATED MUTUAL LIFE OR LIFE AND DISABILITY INSURER INTO AN INCORPORATED STOCK LIFE INSURER ISSUING POLICIES ON A RESERVE BASIS

Article 1. Authority and Requirements to Convert

11535. A domestic incorporated mutual life insurer, or life and disability insurer, issuing nonassessable policies on a reserve basis may be converted into an incorporated stock life or stock life and disability insurer issuing, on a reserve basis, nonassessable policies of life insurance or of both life and disability insurance. To that end it may provide and carry out a plan for the conversion by complying with the requirements of this chapter.

11536. The plan shall include appropriate proceedings for amending the insurer's articles of incorporation to give effect to the conversion from a non-stock corporation into a stock corporation. The plan shall be:

(a) Approved by a resolution of the majority of the board of directors. The resolution shall specify the reasons for and the purposes of the proposed conversion and the manner in which the conversion is expected to benefit and serve the best interests of the policyholders.

(b) Submitted to the commissioner for approval in writing, subject to the provisions of Section 11538.

(c) Approved by a majority vote of the members of the corporation voting at a meeting of the members called for that purpose, subject to the provisions of Section 11539.

(d) Filed in the office of the commissioner after having been approved as provided in subdivisions (b) and (c).

11537. The plan for conversion shall include the following:

(a) A fair and reasonable formula, approved by the commissioner, for determining the equity of each eligible member in the insurer, which equity shall be based upon an appraisal of the fair value of the insurer by one or more qualified disinterested persons appointed by the insurer with the approval of the commissioner. Those persons shall consider the assets and liabilities of the insurer and any factors bearing on the value of the mutual insurer.

(b) Each eligible member of the mutual insurer shall be given a preemptive right to acquire his or her proportionate part of all of the proposed capital stock of the insurer, within a designated reasonable period, by applying upon the purchase of such part the amount of his or her equity as determined under the formula described in subdivision (a).

(c) The members entitled to participate in the purchase of stock or distribution of assets shall be limited to all current policyholder members whose policies have been of record for not less than one year prior to the date the board of directors adopted the plan of conversion.

(d) Each member not applying his or her equity upon the purchase price of stock shall elect to receive either a cash payment or a certificate of contribution. The cash payment shall not be greater than 50 percent of his or her equity as determined by the formula in subdivision (a). The certificate of contribution shall be in an amount equal to 100 percent of his or her equity, as determined by the formula in subdivision (a), shall bear interest at the rate established in Section 10489.4 for minimum standard valuation of all life insurance policies of more than 20 years' duration issued in the year, and shall be repayable within 10 years or, if necessary under the terms of the plan, later, only on written approval of the commissioner and only out of surplus in excess of an amount established in the plan. Any member not electing to receive cash or purchase stock shall be deemed to have elected to receive a certificate of contribution. The stock purchased, cash payment, or certificate of contribution shall constitute full payment and discharge of the member's equity or property interest in the mutual insurer, and, notwithstanding any other provision of law, the member shall have no other rights with respect thereto.

(e) The number of shares to be authorized for the new stock insurer, their par value, and the method for determining the price at which the shares will be offered to eligible members, to the end that the plan, when completed, would provide for the converted insurer paid-in capital and surplus in an amount not less than the minimum paid-in capital and surplus required of a domestic stock

insurer upon initial authorization to transact like kinds of insurance.

(f) Provision for the offering to others of shares not purchased by eligible members within the designated period referred to in subdivision (b) at a price not less than the offering price to members.

11538. The commissioner shall examine the plan submitted pursuant to subdivision (b) of Section 11536. As a part of the examination the commissioner may order a hearing on the plan after giving written notice of the hearing to the insurer, and its members, all of whom shall have the right to appear at the hearing. The commissioner shall approve the plan if he or she finds it will be fair and equitable to the insurer and its policyholders and does not violate the law.

11539. The election prescribed by subdivision (c) of Section 11536 shall be called by the board of directors, the chairman of the board, or the president. Notice of the election shall be given to eligible members by mail at least 30 days prior to the date set for the election. Voting shall be by ballot, in person or by proxy. A quorum shall consist of 5 per centum of the members of the insurer entitled to vote at the meeting.

11540. Subdivision (f) of Section 11537 shall not be deemed to prohibit the inclusion in the conversion plan of provisions under which the individuals comprising the insurer's management, employees and agents shall be entitled to purchase for cash, at the same price as offered to the insurer's members, shares of stock not taken by members on the preemptive offering to members, in accordance with such reasonable classifications of such individuals as may be included in the plan. In no event shall the plan provide for such individuals to acquire in excess of 25 percent of the shares of stock issued pursuant to the plan for a mutual insurer having assets in excess of two hundred million dollars ($200,000,000) or 35 percent for a mutual insurer having assets of two hundred million dollars ($200,000,000) or less.

11541. No director, officer, agent or employee of the insurer shall receive any fee, commission or other valuable consideration whatsoever, other than regular salary and compensation, for in any manner aiding, promoting or assisting in the conversion except as set forth in the plan approved by the commissioner. This provision shall not be deemed to prohibit the payment of reasonable fees and compensation to attorneys at law, accountants and actuaries for services performed in the independent practice of their professions, even though they may also be directors of the insurer.

11542. Upon approval of the conversion plan in accordance with the provisions of this chapter, the commissioner shall issue a new certificate of authority to the converted corporation. The issuance of the certificate is the act of conversion and the mutual insurer shall immediately become a stock corporation. The insurer shall be a continuation of the original insurer, and the conversion shall in no way annul, modify or change any of such insurer's existing suits, rights, contracts or liabilities except as provided in the approved

conversion plan. The insurer, after conversion, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon insurers writing the classes of insurance written by it, and shall retain the rights and contracts existing prior to conversion, subject to the effect of the plan.

11543. The directors and officers of the mutual insurer shall serve until new directors and officers have been duly elected and qualified pursuant to the articles of incorporation and bylaws of the stock insurer.

11544. The offer or sale of securities issued pursuant to the plan of conversion developed and approved in accordance with the provisions of this chapter, shall be exempt from Article 8 (commencing with Section 820) of Chapter 1 of Part 2 of Division 1.

11545. The commissioner shall have the authority from time to time, to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of this chapter. The commissioner shall also have the authority to charge and collect from the insurer for the actual amount of expenses reasonably incurred by the state in discharge of the commissioner's duties hereunder.

11546. Upon completion of the act of conversion and issuance of the certificate of authority under Section 11542, the Secretary of State shall accept for filing a verified copy of the amended articles of incorporation.

CHAPTER 989

An act to add Chapter 8 (commencing with Section 41610) to Division 17 of the Vehicle Code, relating to traffic offenses.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Chapter 8 (commencing with Section 41610) is added to Division 17 of the Vehicle Code, to read:

CHAPTER 8. CONSOLIDATED DISPOSITION

41610. (a) Whenever any person who is in custody enters a guilty plea to any infraction or misdemeanor under this code and there is outstanding any warrant of arrest for a violation of this code or a local ordinance adopted pursuant to this code that is filed in any court within the same county, the defendant may elect to enter a guilty plea to any of these charged offenses of which the court has a record, except offenses specified in subdivision (b). The court shall sentence the defendant for each of the offenses for which a guilty plea has been entered pursuant to this section, and shall notify the

appropriate court or department in each affected judicial district of the disposition. After receiving that notice of disposition, the court in which each complaint was filed shall prepare and transmit to the department any certification required by applicable provisions of Section 40509 as if the court had heard the case.

(b) Subdivision (a) does not authorize entry of a guilty plea as specified in that subdivision to any offense for which a notice of parking violation has been issued, nor to any offense specified in Section 14601.2, 14601.3, 20002, 23103, 23104, 23152, or 23153, subdivision (a) of Section 14601, or subdivision (a) of Section 14601.1.

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 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 990

An act to amend Sections 4604 and 4607 of the Civil Code, and to amend Sections 278, 278.5, 784 and 1497 of, and to add Sections 279 and 784.5 to, the Penal Code, relating to child concealment.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 4604 of the Civil Code is amended to read:

4604. (a) In any case where a petition to determine custody of a child has been filed in a court of competent jurisdiction, or where a temporary order pending determination of custody has been entered in accordance with Section 4600.1, and the whereabouts of a party in possession of the child are not known, or there is reason to believe that such party may not appear in the proceedings although ordered to appear personally with the child pursuant to Section 5160, the district attorney shall take all actions necessary to locate such party and the child and to procure compliance with the order to appear with the child for purposes of adjudication of custody. The petition to determine custody may be filed by the district attorney.

(b) In any case where a custody or visitation decree has been entered by a court of competent jurisdiction and the child is taken or detained by another person in violation of the decree, the district attorney shall take all actions necessary to locate and return the child and the person who violated the decree and the child and to assist in the enforcement of the custody or visitation decree or other order of the court by use of any appropriate civil or criminal proceeding.

(c) In performing the functions described in subdivisions (a) and (b), the district attorney shall act on behalf of the court and shall not represent any party to the custody proceedings.

SEC. 2. Section 4607 of the Civil Code is amended to read:

4607. (a) In any proceeding where there is at issue the custody of or visitation with a minor child, and where it appears on the face of the petition or other application for an order or modification of an order for the custody or visitation of a child or children that either or both such issues are contested, as provided in Section 4600, 4600.1 or 4601, the matter shall be set for mediation of the contested issues prior to or concurrent with the setting of the matter for hearing. The purpose of such mediation proceeding shall be to reduce acrimony which may exist between the parties and to develop an agreement assuring the child or children's close and continuing contact with both parents. The mediator shall use his or her best efforts to effect a settlement of the custody or visitation dispute.

(b) Each superior court shall make available a mediator. Such mediator may be a member of the professional staff of a family conciliation court, probation department, or mental health services agency, or may be any other person or agency designated by the court. In order to provide mediation services, the court shall not be required to institute a family conciliation court. 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 or children involved in the controversy and shall be entitled to interview the child or children 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 custody or visitation of the child or children. 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 children involved in the controversy. Any agreement reached by the parties as a result of 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.

SEC. 3. Section 278 of the Penal Code is amended to read:

278. (a) Every person, not having a right of custody, who maliciously takes, entices away, detains or conceals any minor child with intent to detain or conceal such child from a person, guardian, or public agency having the lawful charge of such child shall be punished by imprisonment in the state prison for two, three or four years, a fine of not more than ten thousand dollars ($10,000), or both, or imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

(b) Pursuant to Sections 27 and 778, a violation of this section is punishable in California, whether the intent to commit the offense is formed within or without the state, if the child was a resident of California or present in California at the time of the taking, or if the child is thereafter found in California.

SEC. 4. Section 278.5 of the Penal Code is amended to read:

278.5. (a) Every person who in violation of the physical custody or visitation provisions of a custody order, judgment, or decree takes, retains, detains, or conceals the child with the intent to deprive another person of his or her rights to physical custody or visitation shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars ($10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

(b) Every person who, whether within or without this state, causes a child to be transported out of this state with the intent to deprive another of his or her rights to physical custody or visitation, in violation of the physical custody or visitation provisions of a custody order, judgment, or decree, shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars ($10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

(c) Every person who has a right to physical custody of or visitation with a child pursuant to an order, judgment or decree of any court which grants another person, guardian or public agency right to physical custody of or visitation with that child, and who within or without the state detains, conceals, takes or entices away that child with the intent to deprive the other person of such right to custody or visitation shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars ($10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars ($1,000), or both.

Pursuant to Sections 27 and 778, a violation of this subdivision is punishable in California, whether the intent to commit the offense is formed within or without the state, if the child was a resident of

California or present in California at the time of the taking, or if the child is thereafter found in California.

SEC. 5. Section 279 is added to the Penal Code, to read:

279. (a) A peace officer investigating a report of a violation of Section 278 or 278.5 may take a minor child into protective custody if it reasonably appears to the officer that any person unlawfully will flee the jurisdictional territory with the minor child.

(b) A child who has been detained or concealed shall be returned to the person, guardian, or pubic agency having lawful charge of the child, or to the court in which a custody proceeding is pending, or to the probation department of the juvenile court in the county in which the victim resides.

(c) The offenses enumerated in Sections 278 and 278.5 are continuous in nature, and continue for so long as the minor child is concealed or detained.

(d) Any expenses incurred in returning the child shall be reimbursed as provided in Section 4605 of the Civil Code. Those expenses, and costs reasonably incurred by the victim, shall be assessed against any defendant convicted of a violation of Section 278 or 278.5.

SEC. 6. Section 784 of the Penal Code is amended to read:

784. The jurisdiction of a criminal action:

(a) For forcibly and without lawful authority seizing and confining another, or inveigling or kidnapping another, with intent, against his or her will, to cause him or her to be secretly confined or imprisoned in this state, or to be sent out of the state, or from one county to another, or to be sold as a slave, or in any way held to service;

(b) For inveigling, enticing, or taking away any person for the purpose of concubinage or prostitution, as defined in subdivision (b) of Section 647;

Is in any competent court within the jurisdictional territory in which the offense was committed, or in the jurisdictional territory out of which the person upon whom the offense was committed was taken or within the jurisdictional territory in which an act was done by the defendant in instigating, procuring, promoting, or aiding in the commission of the offense, or in abetting the parties concerned therein.

SEC. 7. Section 784.5 is added to the Penal Code, to read:

784.5. The jurisdiction of a criminal action for a violation of Section 278 or 278.5 shall be in any one of the following jurisdictional territories:

(a) Any jurisdictional territory in which the victimized person resides, or where the agency deprived of custody is located, at the time of the taking.

(b) In the jurisdictional territory out of which the minor child was taken.

(c) The jurisdictional territory in which the minor child is found.

When the jurisdiction lies in more than one jurisdictional territory,

the district attorneys concerned may agree which of them will prosecute the case.

SEC. 8. Section 1497 of the Penal Code is amended to read:

1497. When it appears to any court, or judge, authorized by law to issue the writ of habeas corpus, that any one is illegally held in custody, confinement, or restraint, and that there is reason to believe that the person will be carried out of the jurisdiction of the court or judge before whom the application is made, or will suffer some irreparable injury before compliance with the writ of habeas corpus can be enforced, the court or judge may cause a warrant to be issued, reciting the facts, and directed to any peace officer, commanding the peace officer to take the person held in custody, confinement, or restraint, and immediately bring him or her before the court or judge, to be dealt with according to law.

SEC. 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 10. If subdivision (b) of Section 278 of the Penal Code, as amended by Section 3 of this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 11. If subdivision (c) of Section 278.5 of the Penal Code, as amended by Section 4 of this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are severable.

SEC. 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 991

An act to amend Section 16707 of the Welfare and Institutions Code, relating to county health services, and making an appropriation therefor.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. The Legislature finds and declares that:

(a) State-funded services provided by local health departments are vitally important in maintaining the health and welfare of the people of California.

(b) Some state funds appropriated for public health purposes are not fully expended each year.

(c) With proper legislative direction, these otherwise unexpended funds can improve the public health by being used for response to emergencies, aiding distressed county hospitals, supporting refugee health services, computerizing local information systems, facilitating county and community clinic coordination, and assisting elderly care programs.

SEC. 2. Section 16707 of the Welfare and Institutions Code is amended to read:

16707. (a) Savings that occur in the County Health Services Fund due to a lack of applications for funds or for failure of local jurisdictions to expend funds as required to qualify for funding under this part may be appropriated to the State Department of Health Services by the Legislature in the annual Budget Act. To the extent that these savings are appropriated, the state department shall allocate these funds pursuant to priority categories established by the Legislature in the Budget Act pursuant to subdivision (b). The funds shall be available to local jurisdictions for one-time projects upon application by the governing body of the jurisdiction. These state funds shall only be expended if a local jurisdiction agrees to a net expenditure of local jurisdiction funds in the same amount as the state funds. However, the Director of Health Services may waive or reduce this matching fund requirement when funds are needed for a public health emergency or for a distressed county hospital if the director determines that one of the following exists:

(1) Due to financial constraints, a local jurisdiction is unable to incur net expenditures of local jurisdiction funds in the same amount as state funds provided.

(2) The interest of the state would best be served by the waiver or reduction of the matching fund requirement.

(b) The priority categories established pursuant to subdivision (a) may include, but are not limited to, the following:

(1) Public health emergencies which are unforeseen events that pose an immediate threat to the public health, such as an impending outbreak of encephalitis, plague, or other infectious disease.

(2) Distressed county hospitals which are facilities in danger of closure due to deterioration, age, or lack of compliance with code standards, and which would, in the opinion of the State Department of Health Services, be likely to stay open if certain identifiable

improvements are made. No expenditure in this category shall exceed one hundred fifty thousand dollars ($150,000).

(3) Computerization of county information systems which is equipment or software, or both, that would help county health departments' accounting, revenue recovery, collections and billings, patient records, management information, and birth certification systems, or help provide the Legislature with information to better enable it to assess the impact and effectiveness of state funds used for public health and medically indigent care services.

(4) Refugee health programs which are projects that address the unique public health problems posed by the influx of refugees into California, such as tuberculosis testing, parasitic disease control, and nutrition education.

(5) County-clinic coordination which are projects that facilitate effective utilization of private nonprofit clinics to reduce costs and improve access to primary care and public health services in medically underserved areas. These funds shall not be used for capital financing.

(6) Elder care projects, which includes the development of adult day health care centers, which are projects for developing adult day health care councils, plans, and new centers, and assisting centers which have been licensed in the prior two years, and the development of previously nonexistent programs for the elderly, which are projects establishing new programs such as cervical and breast cancer education and detection, public health nursing programs specifically for seniors, addition of case management components to existing programs, and audio-visual nutrition education programs.

(7) Any public health purpose the Legislature deems necessary.

(c) The amount of savings which may be utilized pursuant to this section shall be limited in the 1983–84 fiscal year and each fiscal year thereafter, to an amount equal to one quarter of 1 percent of the total amount of funds appropriated to the County Health Services Fund in that fiscal year or two million two hundred thousand dollars ($2,200,000), whichever is greater. Any funds in excess of that amount which are savings from the allocation made pursuant to Section 16702 shall revert to the General Fund. Any funds in excess of that amount allocated to a county which did not contract with the department, pursuant to Section 16709, for the fiscal year and which are savings from allocations made from the Medically Indigent Services Account pursuant to subdivision (b) of Section 16703 shall be deposited in the Local Health Capital Expenditure Account and shall be available for the purposes specified in Section 16715. For the 1983–84 fiscal year, funds shall not be available for projects until two million three hundred sixty-five thousand dollars ($2,365,000) has reverted to the General Fund.

(d) The director shall report annually to the Legislature on the prior year's distribution of funds under this section.

(e) The State Department of Health Services is authorized to

utilize funds that accumulate in the County Health Services Fund for administration of this program so long as these costs are authorized through the regular budget process.

CHAPTER 992

An act to amend Sections 1267, 1279, and 1282 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 1267 of the Health and Safety Code is amended to read:

1267. Each license issued pursuant to this chapter shall expire 12 months from the date of its issuance and each special permit shall expire on the expiration date of the license. Application for renewal of a license or special permit accompanied by the necessary fee shall be filed with the state department not less than 30 days prior to the expiration date. Failure to make a timely renewal shall result in expiration of the license or special permit.

A renewal license or special permit may be issued for a period not to exceed two years if the holder of the license or special permit has been found in substantial compliance with any statutory requirements, regulations, or standards during the preceding license period. However, for a health facility specified in subdivision (a) or (b) of Section 1250, a renewal license or special permit may be issued for a period not to exceed three years, if the holder of the license or special permit has been found in substantial compliance with statutory requirements, regulations, or standards during the preceding license period.

SEC. 2. Section 1279 of the Health and Safety Code is amended to read:

1279. Every health facility for which a license or special permit has been issued shall be periodically inspected by a representative or representatives appointed by the state department, depending upon the type and complexity of the health facility or special service to be inspected. Inspections shall be conducted no less than once every two years and as often as necessary to insure the quality of care being provided. However, for a health facility specified in subdivision (a) or (b) of Section 1250, inspections shall be conducted no less than once every three years, and as often as necessary to insure the quality of care being provided. During the inspection, the representative or representatives shall offer such advice and assistance to the health facility as they deem appropriate.

For acute care hospitals of 100 beds or more, the inspection team

shall include at least a physician, registered nurse, and persons experienced in hospital administration and sanitary inspections. During the inspection, the team shall offer such advice and assistance to the hospital as it deems appropriate.

SEC. 3. Section 1282 of the Health and Safety Code is amended to read:

1282. (a) The state department shall have the authority to contract for outside personnel to perform inspections of health facilities as the need arises. The state department, when feasible, shall contract with nonprofit, professional organizations which have demonstrated the ability to carry out the provisions of this chapter. The organizations shall include, but not be limited to, the California Medical Association Committee on Medical Staff Surveys and participants in the Consolidated Hospital Survey Program.

Quality of care inspections have been performed in recent years by the California Medical Association Committee on Staff Surveys and other organizations which have combined their efforts in the Consolidated Hospital Survey Program. It is the intent of the Legislature that these organizations or comparable organizations shall continue to perform these inspections by contract when sufficient manpower is available from the organizations to do so, unless the state department demonstrates that the inspections fail to assure compliance with the quality of care standards set by this chapter.

(b) If, pursuant to this section, the state department contracts with the Joint Commission on Accreditation of Hospitals to perform all or any part of a quality of care inspection for a health facility specified in subdivision (a) of Section 1250, and if that health facility contracts with the Joint Commission on Accreditation of Hospitals to perform an accreditation inspection and survey at the same time as the quality of care inspection, the health facility shall transmit to the state department, within 30 days of receipt, a copy of the final accreditation report of the Joint Commission on the Accreditation of Hospitals. However, if the Joint Commission on Accreditation of Hospitals conducts an accreditation inspection and survey at a health facility at a time other than the time at which, pursuant to this section, it participates in a quality of care inspection at that facility, then the health facility shall not be required to transmit a copy of the final accreditation report to the state 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 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 993

An act to amend Section 1203.09 of the Penal Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 1203.09 of the Penal Code is amended to read:

1203.09. (a) Notwithstanding any other provision of law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, any person who commits or attempts to commit one or more of the crimes listed in subdivision (b) against a person who is 60 years of age or older; or against a person who is blind, a paraplegic, or a quadriplegic, and such disability is known or reasonably should be known to the person committing the crime; and who during the course of the offense inflicts great bodily injury upon such person.

(b) Subdivision (a) applies to 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) Rape by force or violence, in violation of subdivision (2) of Section 261.

(viii) Assault with intent to commit rape, sodomy, or robbery, in violation of Section 220.

(c) The existence of any fact which would make a person ineligible for probation under either subdivision (a) or (f) shall be alleged in the information or indictment, and either admitted by the defendant in open court, or found to be true by the jury trying the issue of guilt or by the court where guilt is established by plea of guilty or nolo contendere or by trial by the court sitting without a jury.

(d) As used in this section "great bodily injury" means "great bodily injury" as defined in Section 12022.7.

(e) This section shall apply in all cases, including those cases where the infliction of great bodily injury is an element of the offense.

(f) 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, nor shall the execution or imposition of sentence be suspended for, any person convicted of having committed one or more of the following crimes against a person who is 60 years of age or older: assault with a deadly weapon or instrument, battery which results in physical injury which requires professional medical treatment, robbery, or mayhem.

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 provide for more certain and effective punishment for persons committing offenses against persons 60 years of age or older and thereby improve protection for the elderly population of the state, it is necessary that this act go into effect immediately.

CHAPTER 994

An act to amend Sections 5344, 5346, and 5348 of the Food and Agricultural Code, relating to agricultural quarantines.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. 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 violations 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. 2. Section 5346 of the Food and Agricultural Code is amended to read:

5346. (a) It is unlawful for any person to conceal any plant from any plant quarantine officer or to fail to present it or any quarantined article for inspection at the request of such officer.

(b) It is unlawful to move into California any outdoor household

article from a federally designated high-risk gypsy moth area unless accompanied by certification that the article has been inspected and does not contain gypsy moth egg masses. The director may adopt regulations to specify the type of certification and inspection required as necessary to carry out this section.

SEC. 3. Section 5348 of the Food and Agricultural Code is amended to read:

5348. Plant quarantine officers, and officers of the California Highway Patrol, are authorized to cite persons for any violation of this article.

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 995

An act to amend Sections 39250 and 39250.7 of, and to add Section 39250.5 to, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 39250 of the Education Code is amended to read:

39250. The governing board of a school district may:

(a) Lease buildings and other facilities such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 16 years.

(b) Lease property from the federal government, the state, or any county, city and county, city, or district for the purpose of constructing school buildings and facilities thereon.

Except as otherwise provided, any building leased for a total time in excess of three years, or under a lease-purchase agreement, shall be deemed the construction or alteration of a school building, as those terms are used in Article 3 (commencing with Section 39140) of this chapter. A building or facility used by a school district under a lease or a lease-purchase agreement into which neither pupils nor teachers are required to enter and which would be excluded from the meaning of "school building" in Section 39214 shall not be

considered to be a "school building" within the meaning of Section 39141. The governing board of a school district may request and obtain from the State Allocation Board authority for use of any such building not meeting the structural standards prescribed by Article 3 (commencing with Section 39140) of this chapter for an additional three years upon presentation of satisfactory evidence to the State Allocation Board that the district is proceeding in a timely manner with a construction program that will eliminate the need for the leased facilities.

SEC. 2. Section 39250.5 is added to the Education Code, to read:

39250.5. Any building which is used exclusively for adult education purposes and (1) which is being leased on the effective date of this section by the governing board of a school district pursuant to this article or (2) which may, thereafter, be leased by the governing board of a school district pursuant to this article, is exempt from the provisions of Article 3 (commencing with Section 39140) and Section 39210.

If any exempt building has not been constructed in accordance with Article 3 (commencing with Section 39140) and has not been repaired, reconstructed, or replaced in accordance with Article 6 (commencing with Section 39210), the governing board shall post in a conspicuous place on the building a public notice stating that the building does not meet the structural standards imposed by law for earthquake safety.

This section shall apply only to school districts with an average daily attendance of 400,000 or more.

SEC. 3. Section 39250.7 of the Education Code is amended to read:

39250.7. Notwithstanding any other provision of law to the contrary, the governing board of a school district whose average daily attendance is 400,000, or more, may lease buildings and other facilities, such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 16 years, and, upon the expiration of the lease, may lease these buildings and facilities for an additional period of not to exceed 16 years. However, if such facilities are used for programs which are fully or partially funded by other than state or district sources, the facilities may be leased for the duration of the funding. The governing board may also lease for any amount of time health facilities which: (1) are owned by the parent-teachers' association or other similar type organization; (2) are utilized and operated for other than educational services by the school district in which such facility is located; and (3) are for the benefit of those pupils who are brought to the facility by their parents for health services.

SEC. 4. (a) Notwithstanding any other provision of law, the governing board of any school district may, with the approval of the county superintendent of schools of the county in which the school

district is located, contract with the Los Angeles Olympic Organizing Committee, a private nonprofit corporation, to provide the following services during the period of June 1, 1984, through August 31, 1984:

(1) Lease equipment, including schoolbuses and support facilities.

(2) Provide transportation services for persons, except spectators, involved in the 1984 Olympic Games.

(b) The contract shall require the Los Angeles Olympic Organizing Committee to reimburse the school district for all direct costs associated with the contracts.

(c) Any school district which files forms with the Superintendent of Public Instruction covering the annual report of transportation expense in connection with reimbursement for transportation shall show on the forms the total mileage of schoolbuses used in providing transportation for Olympic games purposes. The Superintendent of Public Instruction, in accordance with regulations adopted by him or her, shall deduct from the allowances to a school district for transportation an amount equal to the depreciation of schoolbuses due to their use in transporting persons for the Olympic games.

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.

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:

Many of the leases affected by this act terminate prior to January 1, 1984. Therefore, in order to ensure that school districts are able to continue using the facilities without interruption, and so permit the orderly operation of the districts' programs, it is necessary that this act take effect immediately.

In order to protect the public and the environment in the geographic areas where the Olympic games will be held by reducing the number of vehicles needed to transport participants and in order to allow sufficient time to arrange the contracts needed to implement the transportation scheme, it is necessary that this act take effect immediately.

CHAPTER 996

An act making an appropriation relating to eradication of the Japanese beetle, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. The Legislature hereby finds and declares that:

(a) The Japanese beetle is a tenacious pest which eats more than 300 varieties of fruits, vegetables, plants, trees, and flowers, causing major economic losses.

(b) An infestation of this beetle has been found in California.

(c) The spread of this pest would be detrimental to the state, causing serious commercial crop damage and destruction of lawns, gardens, and parks.

Thus, the Legislature intends to undertake the efforts necessary to eradicate the Japanese beetle, soon and effectively. The Director of Food and Agriculture, in cooperation with federal, city, county, city and county, and other state agencies, shall take steps which are prudent, necessary, legal, and appropriate to protect the health and safety of the people of California in order to accomplish the eradication of this pest.

SEC. 2. The sum of one million five hundred thirty-three thousand three hundred forty-six dollars ($1,533,346) is hereby appropriated from the General Fund to the Department of Food and Agriculture for reimbursement of activities required to carry out Section 1 of this act.

It is the intent of the Legislature that the Department of Food and Agriculture utilize any existing financial resources available for the purposes of this act prior to expending any funds appropriated by this act.

SEC. 3. The Legislature recognizes the extraordinary effort made by the state under the leadership of the Department of Food and Agriculture to eradicate the Japanese beetle and acknowledges that serious cash-flow problems may develop.

SEC. 4. On or before February 1, 1984, the Department of Food and Agriculture shall report to the Legislature on the status of the formulation and the effectiveness of the use of Oftanol (isofenphos) being used in the program to eradicate the Japanese beetle and on the overall progress of that program.

SEC. 5. This act is an urgency statute necessary for the preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Japanese beetle is a serious pest which threatens the agriculture industry, homeowners' yards, and the availability of food and flowers for the general public. In order to prevent economic loss to the industry and food loss to the public, it is necessary that the provisions of this act go into immediate effect.

CHAPTER 997

An act to add and repeal Chapter 7.7 (commencing with Section 2670) of Division 2 of the Public Resources Code, relating to geologic hazards.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Chapter 7.7 (commencing with Section 2670) is added to Division 2 of the Public Resources Code, to read:

CHAPTER 7.7. LANDSLIDE HAZARD IDENTIFICATION PROGRAM

Article 1. General Provisions

2670. This chapter shall be known and may be cited as the Landslide Hazard Identification Act.

2671. (a) The Legislature hereby finds and declares that there exists, in urban and urbanizing areas in California, areas which have the potential for landslides and other slope instability hazards.

(b) The Legislature further finds and declares that areas subject to landslide and other slope instability hazards should be identified and that cities and counties are encouraged to develop land use management policies and regulations to prevent or minimize those hazards to protect the public health and safety.

(c) The Legislature further finds and declares that since most urban and urbanizing areas have landslide potential, counties or cities should participate in the program under this chapter.

2672. (a) It is the intent of the Legislature to provide for a statewide landslide hazard mapping and technical advisory program in urban and urbanizing areas throughout the state to assist cities and counties in fulfilling their responsibilities for protecting the public health and safety from landslide and other unstable slope hazards.

(b) It is further the intent of the Legislature that the maps provided for in this chapter be used to develop information for local government planning and development purposes. This information shall be used to supplement and not to replace existing information and policies in local government procedures.

2673. It is the intent of the Legislature that, for the 1983–84 fiscal year only, the state costs of implementing this chapter be funded from existing resources.

2674. This chapter 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.

Article 2. Definitions

2675. As used in this chapter, the following terms have the following meanings:

(a) "Lead agency" means the city or county which has the principal responsibility for approving building and grading permits.

(b) "Landslide hazard" means an identified recent activity of, or high potential for, landslide, slope failure, creep, or debris flow hazards, including recent activity or high potential for activity resulting from loss of vegetation by fire.

Article 3. Landslide Hazard Program

2680. The director shall establish in the Division of Mines and Geology a landslide hazard program. This program shall include, but is not limited to, both of the following:

(a) A mapping and technical advisory program to assist local and state agencies in their land use and permitting decisions in areas subject to landslide hazards.

(b) Identification of landslide hazards for inclusion in maps pursuant to Section 2686.

2681. The director shall report to the Legislature annually, on or before December 30, on the implementation of the program under this chapter by the department and lead agencies.

Article 4. Landslide Hazard Identification Program

2685. On or before July 30, 1985, the State Mining and Geology Board, in consultation with the State Geologist, shall develop both of the following:

(a) Guidelines for the preparation of maps of landslide hazards in urban and urbanizing areas of the state.

(b) Priorities for mapping of landslide hazards in urban and urbanizing areas in the state. The priorities shall reflect the following factors in the following order of importance: (1) the severity of the landslide hazard, (2) the willingness of lead agencies and other public agencies to share the cost of mapping within their jurisdictions, (3) the availability of existing information, and (4) the need to supplement information used in existing landslide hazard abatement or prevention programs.

In developing these guidelines and priorities, the board shall consult with and consider the recommendations of concerned federal, state, and local agencies.

2686. (a) The State Geologist shall develop maps of landslide hazards within the urban and urbanizing areas of the state. The maps shall identify landslide hazards and shall be at a scale suitable for local planning purposes. The maps shall be made in accordance with a time schedule based upon the priorities developed by the board and the level of funding of the programs under this chapter, and

considering comments from public agencies, including lead agencies.

(b) Prior to completion of the final maps, the State Geologist shall submit the information to the board and affected lead agencies for review and comment.

2687. (a) Affected lead agencies are encouraged to use the maps prepared pursuant to Section 2686 in land use planning and decisionmaking which affects building, grading, and development permits.

(b) In addition, lead agencies, at their discretion, may require supplemental geotechnical studies to complement the maps developed under this chapter.

2688. Nothing in this chapter shall be construed as imposing any liability upon any public entity in excess of any liability imposed under Sections 815.6 and 818.4 of the Government Code.

CHAPTER 998

An act to amend Sections 15330, 15332, and 91502.1 of the Government Code, to amend Sections 4002 and 15086 of, and to add Sections 1253.9 and 10527 to, the Unemployment Insurance Code, relating to the Employee Ownership Act of 1983.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. The Legislature hereby finds and declares that high levels of unemployment and the closing of large numbers of businesses and plants require the encouragement of effective strategies for job retention and economic development. It further finds that encouraging a transition to employee ownership of a business in the case of job loss due to business closings can be effective as a means of preventing undue losses of employment, and that such a form of ownership can provide the productivity increases and ability to restructure and maintain a business or plant which can provide substantial benefits to employees and to the communities in which such businesses are located.

SEC. 2. It is the intent of the Legislature in enacting this act that the State of California provide the maximum feasible encouragement to ownership of a business by its employees for the purpose of job retention and economic development, on the basis of voluntary sale agreements between employers and employees, and consistent with the principles of sound business practices and the ability to compete in the marketplace.

SEC. 3. This act shall be known as the "Employee Ownership Act of 1983."

SEC. 4. Section 15330 of the Government Code is amended to read:

15330. The Department of Economic and Business Development shall be the principal state agency responsible for:

(a) Coordinating federal-state-local relationships in economic development, the continual evaluation of the impact of policies and programs affecting economic development, and encouraging the full utilization of programs available for assisting the residents of the state and local public entities in satisfying the economic development needs of the state.

(b) Applying for and allocating federal funds available under the Public Works and Economic Development Act of 1965, as amended, and such other federal funds as may be available which will promote and assist economic development in the state.

(c) Assisting state agencies, offices, and departments to implement the state economic policy pursuant to Part 12 (commencing with Section 15900) of Division 3 of Title 2 and serving as an advisory agency to the Governor in the preparation of the Economic Report of the Governor as required by Section 15901.

(d) Responding to inquiries and providing statistics and other information on the economy, visitor attractions, and international trade, products and processes.

(e) The department in carrying out its responsibilities shall make maximum use of base data and studies currently being prepared and distributed by other state agencies. It shall avoid duplication of these efforts where possible.

(f) Assisting employees of a business or place of work in the formation of an employee-owned corporation, as defined by Section 91502.1, at that business or place of work, at the request of the employees and when that business or place of work is closing or is in danger of closing, by providing technical assistance, information, or access to sources of financing. The responsibilities created by this subdivision shall be permissive in the absence of nonstate funds unless state funds are specifically authorized by the Legislature for the purposes of this subdivision.

SEC. 5. Section 15332 of the Government Code is amended to read:

15332. The Office of Local Economic Development shall perform the following functions and activities:

(a) Provide comprehensive technical assistance to local public agencies and other entities in order to facilitate the planning and implementation of local economic development projects.

(b) Cooperate with state and federal agencies in making grants or loans to individuals, proprietorships, partnerships, profit and nonprofit corporations, employee-owned corporations, as defined by Section 91502.1 of the Government Code, or local public agencies for the purpose of establishing or expanding local economic development projects which will increase employment opportunities.

(c) Assist in preparing state and local economic plans for the purpose of coordinating statewide economic development.

SEC. 5. Section 91502.1 of the Government Code is amended to read:

91502.1. (a) The Legislature declares that it is the policy of this state, consistent with environmental, resource conservation, and other policies, to facilitate for and on behalf of private enterprise the acquisition of property, either suitable for or evidencing an obligation respecting any one or more of the activities or uses set forth in Section 91503, through the issuance of revenue bonds by authorities in accordance with the criteria set forth in subdivision (b), and that such additional method of financing when made available in accordance with such policy serves a public purpose and will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) The Legislature declares that the criteria to be utilized to determine whether such method of financing may be made available shall include the following:

(1) Whether employment benefits arising out of the use of the facilities may ensue by securing or increasing (A) the number of employees of the company and any other direct users of the facilities or (B) compensation for such employment, the value of which may be expressed in terms of aggregate direct employment earnings.

(2) Whether energy, mineral or natural or cultivated resource conservation benefits arising out of the use of the facilities may ensue by the reduction of waste, improvement of recovery or intensification of utilization of resources that otherwise would be less intensively utilized, or wasted, or not recovered, the value of which may be expressed in terms of the price and amount of the energy, minerals, or other resources saved or recovered, or the price and amount of equivalent energy, minerals, or other resources which would be utilized were the resources not utilized as intensively.

(3) Whether consumer benefits arising out of the use of the facilities may ensue by any of the following:

(A) Improvement of the quantity or quality or reduction in the price of products, energy, or related services or facilities, the value of which may be expressed in terms of quantity and price differentials.

(B) Production of new or improved products, or related services or facilities, the value of which may be expressed in terms of quantity and price.

(C) The transfer of ownership of a business or place of work which has closed or is in danger of closing, to its employees for the purpose of formation of an employee-owned corporation, as defined by subdivision (c).

(c) For purposes of this section, "employee-owned corporation" means a corporation which is under employee ownership. "Employee ownership" means the majority ownership of a business in this state by a majority of its employees under either of the

following methods:

(1) Establishment of an Employee Stock Ownership Plan (ESOP) pursuant to the federal Employee Retirement Income and Security Act (ERISA). All stock initially issued at the time of formation of the employee-owned corporation shall be allocated to the employees and become fully vested within five years of the date the employee-owned corporation begins operation. Voting rights of the employees are established in accordance with Section 409A (e) of the Internal Revenue Code as effective on January 1, 1983.

(2) Establishment of a worker-owned cooperative.

SEC. 6. Section 1253.9 is added to the Unemployment Insurance Code, to read:

1253.9. An unemployed individual otherwise eligible for unemployment compensation benefits under this part shall not be denied these benefits in any week because of the application of any provisions of the law of this state relating to availability for work, active search for work, or refusal to accept suitable work, if the director finds that the individual is actively participating in a good-faith effort to form an employee-owned corporation as defined in Section 91502.1 of the Government Code, in order to return to his or her most recent employment. The individual shall be eligible pursuant to this section until the individual returns to work in the employee-owned corporation which has begun operation, or the good-faith effort fails, or until 26 weeks of benefits have been paid, whichever occurs first.

SEC. 7. Section 4002 of the Unemployment Insurance Code is amended to read:

4002. (a) Except as otherwise provided, the provisions and definitions of Part 1 (commencing with Section 100) of this division apply to this part. In case of any conflict between the provisions of Part 1 and the provisions of this part, the provisions of this part shall prevail with respect to federal-state extended benefits.

(b) Except as otherwise provided, subdivision (d) of Section 1253, and Sections 1030, 1032, 1253.9, 1254, 1277, 1281, 1327, 1328, 1329, 1330, and 1331 do not apply to this part.

(c) The provisions of Part 2 (commencing with Section 2601) of, and of Part 3 (commencing with Section 3501) of this division do not apply to this part.

SEC. 8. Section 10527 is added to the Unemployment Insurance Code, to read:

10527. The coordination and special services plan prepared by the State Job Training Coordinating Council, in accordance with Section 121 of the federal Job Training Partnership Act, shall include provisions allowable under the federal act to facilitate employee ownership, as defined by Section 91502.1 of the Government Code.

SEC. 9. Section 15086 of the Unemployment Insurance Code is amended to read:

15086 The department shall administer federal and state funds appropriated for the support of demonstration and special assistance

programs serving persons eligible under this division, including but not limited to, all of the following:

(a) The Youth Employment and Development Act, as authorized by Chapter 2.5 (commencing with Section 9900) of Division 3.

(b) The Supported Work Program, as authorized by Article 3.3 (commencing with Section 11321) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) The Employment Preparation Program, as authorized by Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) The Employment Training Program for unemployed parents in families that qualify for assistance under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, as authorized by Article 3.6 (commencing with Section 11335) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) The California Welfare Employment Skills Training Act, as authorized by Article 3.7 (commencing with Section 11340) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Reemployment assistance for displaced workers, including appropriate assistance to help effectuate the transfer of ownership to an employee-owned corporation, as defined by Section 91502.1 of the Government Code, pursuant to this section.

SEC. 10. The Department of Corporations shall develop an expedited procedure for the review of an application for authority to sell securities to an "employee-owned corporation," as that term is defined by Section 95102.1 of the Government Code, when the business or place of work of the employees is closing or in danger of closing. The procedure shall be consistent with the intent of the Corporate Securities Law of 1968 (Division 1 (commencing with Section 25000) of Title 4 of the Corporations Code) and take into account the unique nature of the proposed transaction, the extent and nature of involvement of federal, state, or local governmental agencies, and whether the transaction will conform to the requirements of the federal Employee Retirement Income Security Act of 1974.

CHAPTER 999

An act to amend Section 52453 of the Education Code, relating to vocational education.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 52453 of the Education Code is amended to read:

52453. (a) The State Director of Vocational Education shall establish and convene an Agricultural Advisory Committee representative of the various and diverse areas of the agricultural industry in California.

(b) The committee shall be composed of the following:

(1) A representative from a university conducting teacher training in vocational agriculture.

(2) A representative from a community college conducting vocational education in agriculture.

(3) A representative from a high school conducting a program of vocational education in agriculture.

(4) A representative from a school conducting general education in agriculture.

(5) A parent of a student enrolled in vocational agriculture.

(6) Nine other individuals representing diverse agricultural interests from various geographic locations in the state.

The State Supervisor of Agricultural Education shall serve as the committee consultant.

(c) It shall be the purpose of this committee to advise, in an ongoing manner, the State Supervisor of Agricultural Education, the Superintendent of Public Instruction, and the State Board of Education on policy matters pertaining to the state program of agricultural vocational education. The advice of the committee shall include, but not be limited to, the development of a curriculum and a strategy for the purpose of establishing a source of trained and qualified individuals in agriculture, a strategy for articulating the state program in agricultural vocational education throughout the state school system, and a consumer education outreach strategy regarding the importance of agriculture in California.

(d) The committee shall serve without compensation, including travel and per diem and shall operate in accordance with the established policies of the State Department of Education.

CHAPTER 1000

An act to amend Section 3572 of the Public Utilities Code, to amend Section 8701 of, and to add Section 8708 to, the Revenue and Taxation Code, and to amend Sections 4004, 8151, and 12505 of, and to add Section 6854 to, the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. This act shall be known and may be cited as the "Trucking Reciprocity Act of 1983."

SEC. 2. It is the intent of the Legislature in enacting this act to foster good relations between the state and foreign nations with regard to the international operation of commercial vehicles and to extend to foreign nations' highway carriers the same rights and privileges and protection under the law enjoyed by United States highway carriers.

SEC. 3. Section 3572 of the Public Utilities Code is amended to read:

3572. Any highway carrier desiring a permit to operate as a highway contract carrier shall file a petition therefor with the commission. The petition shall set forth:

(a) The name and address of the applicant.

(b) The names and addresses of its officers, if any.

(c) Full information concerning the financial condition and physical properties of the applicant.

(d) Such other information necessary to the enforcement of this chapter as the commission may require.

Before a permit is issued, the commission shall require that the applicant establish financial responsibility. The commission may, with or without hearing, issue or refuse to issue the permit. If the commission finds that the applicant possesses the required financial responsibility to perform the operations proposed, it shall issue a permit. The commission may attach to the permit such terms and conditions as, in its judgment, are required to assure protection to persons utilizing the operations.

No permit shall be issued unless it has been shown that the applicant meets one of the following residence requirements:

(a) If an individual, the applicant shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.

(b) If a partnership, the partner having the largest percentage interest in the partnership shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.

(c) If a corporation, the applicant shall be a domestic corporation or shall have qualified to transact business in the State of California as a foreign corporation at the time of filing the petition.

Except as otherwise provided in this chapter, upon compliance by an applicant with this chapter, the commission shall issue a permit.

SEC. 4. Section 8701 of the Revenue and Taxation Code is amended to read:

8701. (a) Every person desiring to become a user of fuel within this state shall first secure a use fuel tax permit.

(b) The board shall assess a penalty of five hundred dollars ($500) against any person who violates subdivision (a) by using fuel not

acquired from a vendor with a use fuel tax permit or using fuel without a currently valid use fuel tax permit. The penalty shall be a lien against the vehicle using fuel in violation of this section, and the board or its authorized representatives may impound the vehicle until the penalty and all costs incurred in connection with the impounding or storage have been paid.

SEC. 5. Section 8708 is added to the Revenue and Taxation Code, to read:

8708. The board may authorize the issuance of use fuel trip permits to holders of trip permits issued under Section 4004 of the Vehicle Code. The use fuel trip permit shall be valid for the same period as the trip permit issued under Section 4004 of the Vehicle Code. The fee for issuance of a use fuel trip permit is thirty dollars ($30). Other provisions of this article and Article 1 (commencing with Section 8751) of Chapter 4 do not apply to the holder of a use fuel trip permit who uses only fuel brought into this state in the fuel tank of the vehicle and fuel purchased from, and delivered into the fuel tank of the vehicle by, a vendor. Any use fuel tax paid to a vendor for fuel taken out of the state in the fuel tank of a vehicle operated under a use fuel trip permit shall not be refunded to the holder of the permit, notwithstanding any other provisions of this part.

The board may deny the issuance of more than one use fuel trip permit for a user of fuel determined by the board to bring vehicles into this state on a regular, ongoing basis. The board shall maintain a file of all permits issued under this section for the purpose of determining the effectiveness of the program and the appropriateness of the fee. The board may enter into an interagency agreement with the Department of Motor Vehicles providing for the issuance of use fuel trip permits by that department.

SEC. 5.5. 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 State 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. 6. Section 6854 is added to the Vehicle Code, to read:

6854. Any owner or lessor of a commercial vehicle with primary registration and plates issued in a foreign jurisdiction which does not grant reciprocal privileges to California owners of commercial vehicles shall submit to the department proof of ability to respond in damages issued by an insurance company authorized to do business in California. This section shall apply only to commercial vehicles having an unladen weight of over 7,000 pounds which is used in the transportation of property in the conduct of a business.

SEC. 7. Section 8151 of the Vehicle Code is amended to read:

8151. Any person engaged in operating fleets of three or more commercial vehicles in this state in interstate commerce, may, in lieu of registration of the vehicles under the general provisions of this division and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, register and license each fleet for operation in this state by filing a verified application with the department.

This section does not apply to any owner or lessor of a commercial vehicle with primary registration and plates issued in a foreign jurisdiction which does not grant reciprocity or proportionate registration to residents of this state owning commercial vehicles while operating within that foreign jurisdiction.

SEC 8. Section 12505 of the Vehicle Code is amended to read:

12505. (a) Any person entitled to an exemption under Section

12502, 12503, or 12504 may operate a motor vehicle in this state for not to exceed 10 days from the date he or she establishes residence in this state, except that he or she shall obtain a license from the department upon becoming a resident before being employed for compensation by another for the purpose of driving a motor vehicle on the highways.

(b) Subject to Section 12504, any person over the age of 16 years who is a resident of a foreign jurisdiction other than a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or the Dominion of Canada, having a valid driver's license issued to him or her by any other foreign jurisdiction having licensing standards deemed by the Department of Motor Vehicles equivalent to those of this state, may operate a motor vehicle in this state without obtaining a license from the department, except that he or she shall obtain a license before being employed for compensation by another for the purpose of driving a motor vehicle on the highways.

(c) Any person from a foreign country, except a territory or possession of the United States, the Commonwealth of Puerto Rico, or the Dominion of Canada, shall obtain a class 1 or a class 2 license from the department before operating on the highways a motor vehicle for which a class 1 or class 2 license is required, as described in Section 12804. The medical examination form required for issuance of a class 1 or class 2 driver's license shall be completed by a physician licensed to practice medicine in the United States of America This subdivision does not apply to (1) drivers of schoolbuses operated in California on a trip for educational purposes or (2) drivers of vehicles used to provide the services of a local public agency.

(d) Nothing in this section shall authorize the employment of a person in violation of Section 12515.

CHAPTER 1001

An act to add Section 2404.5 to the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 2404 5 is added to the Vehicle Code, to read:

2404.5. The department shall obtain a vehicle suitable for registration and commerical safety inspections at border crossings into Mexico.

SEC. 2. The sum of twenty-four thousand five hundred dollars ($24,500) is hereby appropriated from the Motor Vehicle Account in

the State Transportation Fund to the Department of the California Highway Patrol for the purchase of a vehicle and for the purchase of computer equipment for the vehicle , specified in Section 2404.5 of the Vehicle Code.

CHAPTER 1002

An act to amend Sections 1265.5 and 15026 of the Health and Safety Code, relating to health care facilities.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 1265.5 of the Health and Safety Code is amended to read:

1265.5. (a) Prior to the initial licensure or renewal of a license of any person or persons to operate or manage an intermediate care facility/developmentally disabled habilitative, the state department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant, facility administrator or manager, any direct care staff, or any other adult living in the same location, has ever been convicted of a crime other than a minor traffic violation. If it is found that the applicant, facility administrator or manager, any direct care staff, or any other adult living in the same location, has been so convicted, the application or reapplication shall be denied, unless otherwise approved pursuant to this chapter. Nothing in this section shall be construed to require a criminal record check of a person receiving services in an intermediate care facility/developmentally disabled habilitative.

(b) For purposes of this section, "direct care staff" means all facility staff who are trained and experienced in the care of persons with developmental disabilities and who directly provide program and nursing services to clients. Administrative and licensed personnel shall be considered direct care staff when directly providing program and nursing services to clients. Nothing in this section shall be construed to require criminal record checks of persons employed as consultants.

(c) Within 20 days after the employment of any person specified in subdivision (a), the facility shall submit fingerprint cards to the department for the purpose of obtaining a criminal record check.

SEC. 2. Section 15026 of the Health and Safety Code is amended to read:

15026. (a) "Hospital building" includes any building not specified in subdivision (b) which is used, or designed to be used, for a health facility of a type required to be licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(b) "Hospital building" shall not include any of the following:

(1) Any building in which only outpatient clinic services are provided and which is separated from a building in which hospital services are provided.

(2) Any building used, or designed to be used, for a skilled nursing facility or intermediate care facility if such building is of single-story, wood frame construction.

(3) Any building of single-story, wood frame construction in which only skilled nursing or intermediate care services are provided if such building is separated from a building housing other patients of the health facility receiving higher levels of care.

(4) Any freestanding structures of a chemical dependency recovery hospital exempted under the provisions of subdivision (c) of Section 1275.2.

(5) Any building licensed to be used as an intermediate care facility/developmentally disabled habilitative with six beds or less and any intermediate care facility/developmentally disabled habilitative of 7 to 15 beds which is a single story, wood-frame building.

CHAPTER 1003

An act to amend Section 1250 of, and to add Section 1250.8 to, the Health and Safety Code, and to amend Section 14053 of the Welfare and Institutions Code, relating to health facilities.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 1250 of the Health and Safety Code is amended to read:

1250. As used in this chapter, "health facility" means any facility, place or building which is organized, maintained and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, and includes the following types:

(a) "General acute care hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services. A general acute care hospital may include more than one physical plant maintained and operated on

separate premises as provided in Section 1250.8. A general acute care hospital which exclusively provides acute medical rehabilitation center services, including at least physical therapy, occupational therapy, and speech therapy, may provide for the required surgical and anesthesia services through a contract with another acute care hospital. In addition, a general acute care hospital which, on July 1, 1983, provided required surgical and anesthesia services through a contract or agreement with another acute care hospital may continue to provide these surgical and anesthesia services through a contract or agreement with an acute care hospital.

(b) "Acute psychiatric hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(c) "Skilled nursing facility" means a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability of skilled nursing care on an extended basis.

(d) "Intermediate care facility" means a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability of continuous skilled nursing care.

(e) "Intermediate care facility/developmentally disabled habilitative" means a facility with a capacity of four to 15 beds which provides 24-hour personal care, habilitation, developmental, and supportive health services to 15 or fewer developmentally disabled persons who have intermittent recurring needs for nursing services, but have been certified by a physician as not requiring availability of continuous skilled nursing care.

(f) "Special hospital" means a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient care in dentistry or maternity.

(g) "Intermediate care facility/developmentally disabled" means a facility which provides 24-hour personal care, habilitation, developmental, and supportive health services to developmentally disabled clients whose primary need is for developmental services and who have a recurring but intermittent need for skilled nursing services.

SEC. 2. Section 1250.8 is added to the Health and Safety Code, to read:

1250.8. (a) Notwithstanding subdivision (a) of Section 437.10,

the state department, upon application of a general acute care hospital which meets all the criteria of subdivision (b), and other applicable requirements of licensure, shall issue a single, consolidated license to a general acute care hospital which includes more than one physical plant maintained and operated on separate premises or which has multiple licenses for a single health facility on the same premises. A single, consolidated license shall not be issued where the separate physical plant is a skilled nursing facility or an intermediate care facility located on premises which are not adjacent to the general acute care hospital.

(b) The issuance of a single, consolidated license shall be based on the following criteria:

(1) There is a single governing body for all of the facilities maintained and operated by the licensee.

(2) There is a single administration for all of the facilities maintained and operated by the licensee.

(3) There is a single medical staff for all of the facilities maintained and operated by the licensee, with a single set of bylaws, rules, and regulations, which prescribe a single committee structure.

(4) The physical plants maintained and operated by the licensee which are to be covered by the single, consolidated license are located not more than 15 miles apart. However, the director may issue a single, consolidated license to a general acute care hospital which maintains and operates two or more physical plants which are located beyond 15 miles if all of the following exist:

(A) One or more physical plants are located in a rural area, as defined by regulations of the director.

(B) The director finds, after consultation with the Director of the Office of Statewide Health Planning and Development, that the issuance of the single, consolidated license for the general acute care hospital would not significantly impair the operation of Part 1.5 (commencing with Section 437) of Division 1.

(C) The director finds that the licensee can comply with the requirements of licensure and maintain the provision of quality care, and adequate administrative and professional supervision.

(c) In issuing the single, consolidated license, the state department shall specify the location of each supplemental service and the location of the number and category of beds provided by the licensee.

(d) To the extent required by Part 1.5 (commencing with Section 437) of Division 1, a general acute care hospital which has been issued a single consolidated license:

(1) Shall not transfer from one facility to another a special service described in Section 1255 without first obtaining a certificate of need.

(2) Shall not transfer, in whole or in part, from one facility to another, a supplemental service, as defined in regulations of the director pursuant to this chapter, without first obtaining a certificate of need, unless the licensee, 30 days prior to such relocation, notifies the Office of Statewide Health Planning and Development, the

applicable health systems agency, and the state department of the licensee's intent to relocate the supplemental service, and includes with this notice a cost estimate, certified by a person qualified by experience or training to render such estimates, which estimates that the cost of the transfer will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(3) Shall not transfer beds from one facility to another facility, without first obtaining a certificate of need unless, 30 days prior to the relocation, the licensee notifies the Office of Statewide Health Planning and Development, the applicable health systems agency, and the state department of the licensee's intent to relocate health facility beds, and includes with this notice both of the following:

(A) A cost estimate, certified by a person qualified by experience or training to render such estimates, which estimates that the cost of the relocation will not exceed the capital expenditure threshold established by the Office of Statewide Health Planning and Development pursuant to Section 437.10.

(B) The identification of the number, classification, and location of the health facility beds in the transferor facility and the proposed number, classification, and location of the health facility beds in the transferee facility.

Except as otherwise permitted in Part 1.5 (commencing with Section 437) of Division 1, or as authorized in an approved certificate of need pursuant to that part, health facility beds transferred pursuant to this section shall be used in the transferee facility in the same bed classification as defined in Section 1250.1, as the beds were classified in the transferor facility.

Health facility beds transferred pursuant to this section shall not be transferred back to the transferor facility for two years from the date of the transfer, regardless of cost, without first obtaining a certificate of need pursuant to Part 1.5 (commencing with Section 437) of Division 1.

(e) All transfers pursuant to subdivision (d) shall satisfy all applicable requirements of licensure and shall be subject to the written approval, if required, of the state department. The state department may adopt regulations which are necessary to implement the provisions of this section. These regulations may include a requirement that each facility of a health facility subject to a single consolidated license have an onsite full-time or part-time administrator.

(f) As used in this section, "facility" means any physical plant operated or maintained by a health facility subject to a single, consolidated license issued pursuant to this section.

(g) For purposes of selective provider contracts negotiated under the Medi-Cal program, the treatment of a health facility with a single consolidated license issued pursuant to this section shall be subject to negotiation between the health facility and the California Medical Assistance Commission. A general acute care hospital which is issued

a single consolidated license pursuant to this section may, at its option, receive from the state department a single Medi-Cal program provider number or separate Medi-Cal program provider numbers for one or more of the facilities subject to the single consolidated license. Irrespective of whether the general acute care hospital is issued one or more Medi-Cal provider numbers, the state department may require the hospital to file separate cost reports for each facility pursuant to Section 14170 of the Welfare and Institutions Code.

(h) For purposes of the Annual Report of Hospitals required by regulations adopted by the state department pursuant to this part, the state department and the Office of Statewide Health Planning and Development may require reporting of bed and service utilization data separately by each facility of a general acute care hospital issued a single consolidated license pursuant to this section.

SEC. 3. Section 14053 of the Welfare and Institutions Code is amended to read:

14053. The term "health care services" means the benefits set forth in Article 4 (commencing with Section 14131) of this chapter and in Section 14021. The term includes inpatient hospital services for any individual under 21 years of age in an institution for mental diseases. Any individual under 21 years of age receiving such inpatient psychiatric hospital services immediately preceding the date on which he or she attains age 21 may continue to receive such services until he or she attains age 22.

The term "health care services" does not include, except to the extent permitted by federal law, any of the following:

(a) Care or services for any individual who is an inmate of an institution (except as a patient in a medical institution).

(b) Care or services for any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis.

(c) Care or services for any individual who is 21 years of age or over, except as provided in the first paragraph of this section, and has not attained 65 years of age and who is a patient in an institution for mental diseases.

(d) Inpatient services provided to individuals 21 to 64 years of age, inclusive, in an institution for mental diseases operating under a consolidated license with a general acute care hospital pursuant to Section 1250.8 of the Health and Safety Code, unless federal financial participation is available for such inpatient services.

CHAPTER 1004

An act to add Section 2268 to the Vehicle Code, relating to the California Highway Patrol.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 2268 is added to the Vehicle Code, to read:

2268. (a) Any member of the California Highway Patrol, as specified in Section 2250, shall be capable of fulfilling the complete range of official duties administered by the commissioner pursuant to Section 2400 and other critical duties that may be necessary for the preservation of life and property. Members of the California Highway Patrol shall not be assigned to permanent limited duty positions which do not require the ability to perform these duties.

(b) Subdivision (a) does not apply to any member of the California Highway Patrol who, after sustaining serious job-related physical injuries, returned to duty with the California Highway Patrol and who received a written commitment from the appointing power allowing his or her continued employment as a member of the California Highway Patrol. This subdivision applies only to commitments made prior to January 1, 1984.

(c) Nothing in subdivision (a) entitles a member of the California Highway Patrol to, or precludes a member from receiving, an industrial disability retirement.

CHAPTER 1005

An act to amend Sections 23222 and 40000.15 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 23222 of the Vehicle Code is amended to read:

23222. (a) No person shall have in his or her possession on his or her person, while driving a motor vehicle upon a highway, any bottle, can, or other receptacle, containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed.

(b) Except as authorized by law, every person who possesses, while driving a motor vehicle upon a highway, not more than one avoirdupois ounce of marijuana, other than concentrated cannabis as defined by Section 11006.5 of the Health and Safety Code, is guilty of a misdemeanor and shall be punished by a fine of not more than one hundred dollars ($100). Notwithstanding any other provision of law, if the person has been previously convicted three or more times of an offense described in this subdivision during the two-year period

immediately preceding the date of commission of the violation to be charged, the previous convictions shall also be charged in the accusatory pleading and, if found to be true by the jury upon a jury trial or by the court upon a court trial or if admitted by the person, Sections 1000.1 and 1000.2 of the Penal Code are applicable to the person, and the court shall divert and refer the person for education, treatment, or rehabilitation, without a court hearing or determination or the concurrence of the district attorney, to an appropriate community program which will accept the person. If the person is so diverted and referred, the person is not subject to the fine specified in this subdivision. In any case in which a person is arrested for a violation of this subdivision and does not demand to be taken before a magistrate, the person shall be released by the arresting officer upon presentation of satisfactory evidence of identity and giving his or her written promise to appear in court, as provided in Section 40500, and shall not be subjected to booking.

SEC. 2. Section 40000.15 of the Vehicle Code is amended to read:

40000.15. A violation of any of the following provisions shall constitute a misdemeanor, and not an infraction:

Sections 23103 and 23104, relating to reckless driving.

Section 23109, relating to speed contests or exhibitions.

Section 23110, subdivision (a), relating to throwing at vehicles.

Section 23152, relating to driving under the influence.

Subdivision (b) of Section 23222, relating to possession of marijuana.

Section 23253, relating to officers on vehicular crossings.

Section 23332, relating to trespassing.

Section 27150.1, relating to sale of exhaust systems.

Section 28050, relating to true mileage driven.

Section 28050.5, relating to nonfunctional odometers.

Section 28051, relating to resetting odometer.

Section 28051.5, relating to device to reset odometer.

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 1006

An act relating to mosquito abatement, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. There is hereby appropriated from the General Fund to the Controller the sum of thirty thousand dollars ($30,000) for allocation to the County of Imperial for the purpose of increased surveillance and control of mosquito vectors of encephalitis, which may include, but shall not be limited to, ground and aerial application of pesticides.

The Controller shall allocate the sum of thirty thousand dollars ($30,000) to the County of Imperial on the effective date of this act.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Appropriated funds to abate and exterminate outbreaks of mosquitoes are not presently available. Already there have been reported cases of encephalitis in Imperial County. In order to allow the local officials to increase surveillance and control of mosquito vectors of encephalitis as soon as possible, it is necessary for this act to take immediate effect.

CHAPTER 1007

An act relating to fiscal affairs.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. The sum of twenty-one million five hundred thousand dollars ($21,500,000), which is the total amount that was transferred from the Off-Highway Vehicle Fund to the General Fund pursuant to Section 64 of Chapter 115 of the Statutes of 1982, and Section 43 of Chapter 10 of the 1983–84 First Extraordinary Session, shall be transferred by the Controller from the General Fund to the Off-Highway Vehicle Fund as provided in this section.

At any time on or after July 1, 1984, the Director of Finance determines that the Off-Highway Vehicle Fund has become, or is about to become, encumbered in excess of the moneys available in the fund, the Director of Finance shall direct the Controller to transfer from the General Fund to the Off-Highway Vehicle Fund whatever funds are necessary to cover the encumbrance, up to a maximum of the amount specified in this section.

CHAPTER 1008

An act to add Section 23428.21 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 23428.21 is added to the Business and Professions Code, to read:

23428.21. For the purposes of this article, "club" also means any local dental society having an authorized delegate to the California Dental Association and composed entirely of dentists duly admitted, licensed and qualified to practice dentistry within the state, which has at least 250 members and has been in existence for a period of more than 20 years and which owns, leases, operates or maintains a club room or rooms for its members, and has operated the club room or rooms for a period of not less than three years.

No license shall be issued pursuant to this section to any club which restricts membership or in any other way discriminates against any person in the use of any of its facilities, on the basis of race, religion, national origin, sex, or age.

CHAPTER 1009

An act to add and repeal Part 2.6 (commencing with Section 10610) to Division 6 of the Water Code, relating to water conservation.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Part 2.6 (commencing with Section 10610) is added to Division 6 of the Water Code, to read:

PART 2.6. URBAN WATER MANAGEMENT PLANNING

CHAPTER 1. GENERAL DECLARATION AND POLICY

10610. This part shall be known and may be cited as the "Urban Water Management Planning Act."

10610.2. The Legislature finds and declares as follows:

(a) The waters of the state are a limited and renewable resource subject to ever increasing demands.

(b) The conservation and efficient use of urban water supplies are of statewide concern; however, the planning for that use and the implementation of those plans can best be accomplished at the local level.

10610.4. The Legislature finds and declares that it is the policy of the state as follows:

(a) The conservation and efficient use of water shall be actively pursued to protect both the people of the state and their water resources.

(b) The conservation and efficient use of urban water supplies shall be a guiding criterion in public decisions.

(c) Urban water suppliers shall be required to develop water management plans to achieve conservation and efficient use.

CHAPTER 2. DEFINITIONS

10611. Unless the context otherwise requires, the definitions of this chapter govern the construction of this part.

10611.5. "Conservation" means those measures that limit the amount of water used only to that which is reasonably necessary for the beneficial use to be served.

10612. "Customer" means a purchaser of water from a water supplier who uses the water for municipal purposes, including residential, commercial, governmental, and industrial uses.

10613. "Efficient use" means those management measures that result in the most effective use of water so as to prevent its waste or unreasonable use or unreasonable method of use.

10614. "Person" means any individual, firm, association, organization, partnership, business, trust, corporation, company, public agency, or any agency of such an entity.

10615. "Plan" means an urban water management plan prepared pursuant to this part. A plan shall describe and evaluate reasonable and practical efficient uses and conservation activities. The components of the plan may vary according to an individual community or area's characteristics and its capabilities to efficiently use and conserve water. The plan shall address measures for residential, commercial, governmental, and industrial water management as set forth in Article 2 (commencing with Section 10630) of Chapter 3. In addition, a strategy and time schedule for implementation shall be included in the plan.

10616. "Public agency" means any board, commission, county, city and county, city, regional agency, district, or other public entity.

10617. "Urban water supplier" means a supplier, either publicly or privately owned, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually. An urban water supplier includes a supplier or contractor for water, regardless of the basis of right, which distributes or sells for ultimate resale to customers. This part applies only to water supplied from public water systems subject

to Chapter 7 (commencing with Section 4010) of Part 1 of Division 5 of the Health and Safety Code.

CHAPTER 3. URBAN WATER MANAGEMENT PLANS

Article 1. General Provisions

10620. (a) Every urban water supplier serving water directly to customers shall, not later than December 31, 1985, prepare and adopt an urban water management plan in the manner set forth in Article 3 (commencing with Section 10640).

(b) Every person that becomes an urban water supplier after December 31, 1984, shall adopt an urban water management plan within one year after it has become an urban water supplier.

(c) An urban water supplier indirectly providing water to customers may adopt an urban water management plan or participate in areawide, regional, watershed, or basinwide urban water management planning; provided, however, an urban water supplier indirectly providing water shall not include planning elements in its water management plan as provided in Article 2 (commencing with Section 10630) that would be applicable to urban water suppliers or public agencies directly providing water, or to their customers, without the consent of those suppliers or public agencies.

(d) An urban water supplier may satisfy the requirements of this part by participation in areawide, regional, watershed, or basinwide urban water management planning where those plans will reduce preparation costs and contribute to the achievement of conservation and efficient water use.

(e) The urban water supplier may prepare the plan with its own staff, by contract, or in cooperation with other governmental agencies.

10621. Each urban water supplier shall periodically review its plan at least once every five years. After the review, it shall make any amendments or changes to its plan which are indicated by the review. Amendments or changes in its plan shall be adopted and filed in the manner set forth in Article 3 (commencing with Section 10640).

Article 2. Contents of Plans

10630. It is the intention of the Legislature, in enacting this part, to permit levels of water management planning commensurate with the numbers of customers served and the volume of water supplied.

10631. A plan shall include all of the following elements:

(a) Contain an estimate of past, current, and projected water use and, to the extent records are available, segregate those uses between residential, industrial, commercial, and governmental uses.

(b) Identify conservation measures currently adopted and being

practiced.

(c) Describe alternative conservation measures, if any, which would improve the efficiency of water use with an evaluation of their costs and their environmental and other significant impacts.

(d) Provide a schedule of implementation for proposed actions as indicated by the plan.

(e) Describe the frequency and magnitude of supply deficiencies, including conditions of drought and emergency, and the ability to meet short-term deficiencies.

10632. In addition to the elements required pursuant to Section 10631, a plan projecting a future use which indicates a need for expanded or additional water supplies shall contain an evaluation of the following:

(a) Waste water reclamation.

(b) Exchanges or transfer of water on a short-term or long-term basis.

(c) Management of water system pressures and peak demands.

(d) Incentives to alter water use practices, including fixture and appliance retrofit programs.

(e) Public information and educational programs to promote wise use and eliminate waste.

(f) Changes in pricing, rate structures, and regulations.

10633. The plan shall contain an evaluation of the alternative water management practices identified in Sections 10631 and 10632, taking into account economic and noneconomic factors, including environmental, social, health, customer impact, and technological factors.

Evaluation of the elements in Section 10632 shall include a comparison of the estimated cost of alternative water management practices with the incremental costs of expanded or additional water supplies, and in the course of the evaluation first consideration shall be given to water management practices, or combination of practices, which offer lower incremental costs than expanded or additional water supplies, considering all the preceding evaluation factors.

Article 3. Adoption and Implementation of Plans

10640. Every urban water supplier required to prepare a plan pursuant to this part shall prepare its plan pursuant to Article 2 (commencing with Section 10630).

The supplier shall likewise periodically review the plan as required by Section 10621, and any amendments or changes required as a result of that review shall be adopted pursuant to this article.

10641. (a) An urban water supplier required to prepare a plan may consult with, and obtain comments from, any public agency or state agency or any person who has special expertise with respect to water conservation and management methods and techniques.

(b) In order to assist urban water suppliers in obtaining needed

expertise as provided for in subdivision (a), the department, upon request of an urban water supplier, shall provide the supplier with a list of persons or agencies having expertise or experience in the development of water management plans.

10642. Prior to adopting a plan, the urban water supplier shall make the plan available for public inspection and shall hold a public hearing thereon. Prior to the hearing, notice of the time and place of hearing shall be published within the jurisdiction of the publicly owned water supplier pursuant to Section 6066 of the Government Code. A privately owned water supplier shall provide an equivalent notice within its service area. After the hearing, the plan shall be adopted as prepared or as modified after the hearing.

10643. An urban water supplier shall implement its plan adopted pursuant to this chapter in accordance with the schedule set forth in its plan.

10644. An urban water supplier shall file with the department a copy of its plan no later than 30 days after adoption. Copies of amendments or changes to the plans shall be filed with the department within 30 days after adoption.

The department shall annually prepare and submit to the Legislature a report summarizing the status of the plans adopted pursuant to this part.

CHAPTER 4. MISCELLANEOUS PROVISIONS

10650. Any actions or proceedings to attack, review, set aside, void, or annul the acts or decisions of an urban water supplier on the grounds of noncompliance with this part shall be commenced as follows:

(a) An action or proceeding alleging failure to adopt a plan shall be commenced within 18 months after that adoption is required by this part, or within 18 months after commencement of urban water service by a supplier commencing that service after January 1, 1984.

(b) Any action or proceeding alleging that a plan, or action taken pursuant to the plan, does not comply with this part shall be commenced within 90 days after filing of the plan or amendment thereto pursuant to Section 10644 or the taking of that action.

10651. In any action or proceeding to attack, review, set aside, void, or annul a plan, or an action taken pursuant to the plan by an urban water supplier on the grounds of noncompliance with this part, the inquiry shall extend only to whether there was a prejudicial abuse of discretion. Abuse of discretion is established if the supplier has not proceeded in a manner required by law or if the action by the water supplier is not supported by substantial evidence.

10652. The California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) does not apply to the preparation and adoption of plans prepared and adopted under this part. Nothing in this part shall be interpreted as exempting projects for implementation of the plan or for expanded

or additional water supplies from the provisions of the California Environmental Quality Act.

10653. The adoption of a plan shall satisfy any requirements of state law, regulation, or order, including those of the State Water Resources Control Board, for the preparation of water management plans or conservation plans; provided, that if the State Water Resources Control Board requires additional information concerning water conservation to implement its existing authority, nothing in this part shall be deemed to limit the board in obtaining that information. The requirements of this part shall be satisfied by any water conservation plan prepared to meet federal laws or regulations after the effective date of this part, and which substantially meets the requirements of this part, or by any existing water management or conservation plan which includes the contents of a plan required under this part.

10654. All costs incurred by an urban water supplier in developing or implementing its plan shall be borne by it unless otherwise provided for by statute.

10655. If any provision of this part or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of this part which can be given effect without the invalid provision or application thereof, and to this end the provisions of this part are severable.

10656. This part shall remain in effect only until January 1, 1991, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1991, deletes or extends that date.

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 1010

An act to amend Sections 708.730, 708.740, 708.770, 708.780, and 708.795 of the Code of Civil Procedure, relating to child support.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 708.730 of the Code of Civil Procedure is amended to read:

708.730. (a) If money is owing and unpaid to the judgment debtor by a public entity, the judgment creditor may file, in the manner provided in this article, an abstract of the money judgment

or a certified copy of the money judgment, together with an affidavit that states that the judgment creditor desires the relief provided by this article and states the exact amount then required to satisfy the judgment. The judgment creditor may state in the affidavit any fact tending to establish the identity of the judgment debtor.

(b) Promptly after filing the abstract or certified copy of the judgment and the affidavit with the public entity, the judgment creditor shall serve notice of the filing on the judgment debtor. Service shall be made personally or by mail.

(c) If the judgment is for child support and money is owing and unpaid to the judgment debtor by a state agency as a result of overpayment of a tax, penalty, or interest, or interest allowable with respect to an overpayment, under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, and the district attorney is enforcing the child support obligation pursuant to Section 11475.1 of the Welfare and Institutions Code, the claim may be submitted as follows: The district attorney may file the affidavit referred to in subdivision (a) without filing an abstract or certified copy of the judgment. In lieu thereof, the affidavit shall also state that an abstract of the judgment could be obtained. Where there is more than one judgment debtor, the district attorney may include all such judgment debtors in a single affidavit. Separate affidavits need not be submitted for each judgment debtor. The affidavit need not on its face separately identify each judgment debtor or the exact amount required to satisfy the judgment, so long as it incorporates by reference forms or other automated data transmittals, as required by the State Department of Social Services, which contain this information. Affidavits so submitted by the district attorney shall meet the standards and procedures prescribed by the Franchise Tax Board.

In serving the notice required by subdivision (b), the Director of the State Department of Social Services or his or her designee may act in lieu of the judgment creditor as to judgments enforced under this division.

SEC. 2. Section 708.740 of the Code of Civil Procedure is amended to read:

708.740. (a) Except as provided in subdivision (e), if money is owing and unpaid to the judgment debtor by a state agency, the judgment creditor shall file the abstract or certified copy of the judgment and the affidavit with the state agency owing the money to the judgment debtor prior to the time the state agency presents the claim of the judgment debtor to the Controller. Where the affidavit is prepared under subdivision (c) of Section 708.730, the affidavit shall be filed with the State Department of Social Services, and no abstract need be filed. Filing of the affidavit with the department shall be sufficient to require the Controller to transfer the funds claimed by the judgment debtor, notwithstanding that the claim of the judgment debtor has been filed with another state agency.

(b) When presenting the claim of the judgment debtor to the Controller, the state agency shall do all of the following:

(1) Note the fact of the filing of the abstract or certified copy of the judgment and the affidavit.

(2) State the amount required to satisfy the judgment as shown by the affidavit.

(3) State any amounts advanced to the judgment debtor by the state, or owed by the judgment debtor to the state, for expenses or for any other purpose.

(c) Except as provided in subdivisions (d) and (e), to discharge the claim of the judgment debtor, the Controller shall (1) deposit with the court, by a warrant or check payable to the court, the amount due the judgment debtor (after deducting an amount sufficient to reimburse the state for any amounts advanced to the judgment debtor or owed by the judgment debtor to the state) required to satisfy the money judgment as shown by the affidavit in full or to the greatest extent and (2) pay the balance thereof, if any, to the judgment debtor.

(d) Where an affidavit stating the existence of a judgment for child support has been submitted to the State Department of Social Services, pursuant to subdivision (c) of Section 708.730, to discharge the claim of a judgment debtor, the Controller shall direct payment to the county agency designated by the district attorney in his or her affidavit.

(e) Where the judgment is for child support and the money owed is a refund of overpayment of tax, penalty, interest, or interest allowable with respect to an overpayment under Part 10 (commencing with Section 17001) of Division 2 of the Revenue and Taxation Code, and the support obligation is not being enforced pursuant to Section 11475.1 of the Welfare and Institutions Code, the judgment creditor shall file the abstract or certified copy of the judgment with the district attorney of the county in which the child support judgment is entered or registered. The district attorney shall then file the claim of the judgment creditor pursuant to subdivision (c) of Section 708.730. When funds are received by the district attorney he or she shall discharge any claim of the judgment debtor by forwarding those sums to the clerk of the court pursuant to subdivision (c) of this section. Any and all notices otherwise required of a judgment creditor or the clerk of court, and any litigation to enforce rights under this subdivision shall be the responsibility of the judgment creditor, the same as if service had been directly on the Controller without the intervention of the district attorney.

(f) Where the claim of the judgment debtor is less than ten dollars ($10) and the claim of the judgment creditor arises under an affidavit filed pursuant to subdivision (c) of Section 708.730, the Controller may disregard the claim of the judgment creditor and forward any and all sums due to the judgment debtor. In the event that there is more than one claimant for a refund, the Franchise Tax Board shall have discretion in allocating the overpayment among claimants.

(g) Should two or more district attorneys submit claims on behalf of a judgment creditor, the Controller in his or her discretion may select which claim or claims he or she shall honor.

(h) Any claims which are honored in behalf of a judgment creditor shall be considered as refunds of tax overpayments to the judgment debtor.

SEC. 3. Section 708.770 of the Code of Civil Procedure is amended to read:

708.770. (a) Except as provided in subdivision (g), promptly after deposit with the court by the public entity, the court clerk shall cause a notice of deposit to be served on the judgment debtor. Service shall be made personally or by mail.

(b) Within 10 days after service of the notice of deposit pursuant to subdivision (a), the judgment debtor who claims an exemption shall do both of the following:

(1) File with the court a claim of exemption and a notice of motion for an order determining the claim of exemption. The claim of exemption shall include all of the matters set forth in subdivision (b) of Section 703.520.

(2) Serve on the judgment creditor a copy of the notice of motion, a copy of the claim of exemption, and a notice of hearing on the motion. Service shall be made personally or by mail.

(c) The hearing on the motion shall be held not later than 30 days from the date the notice of motion was filed with the court unless continued by the court for good cause.

(d) Within 10 days after the judgment creditor is served under subdivision (b), the judgment creditor who opposes the motion shall do both of the following:

(1) File with the court a notice of opposition to the claim of exemption. The notice of opposition to the claim of exemption shall be executed under oath and shall include all of the matters set forth in Section 703.560.

(2) Serve on the judgment debtor a copy of the notice of opposition to the claim of exemption. Service shall be made personally or by mail.

(e) Subdivisions (a) to (d), inclusive, of Section 703.580 and Sections 703.590 and 703.600 apply to a claim of exemption made pursuant to this section.

(f) The failure of the judgment debtor to make a claim of exemption under this section constitutes a waiver of the exemption.

(g) In lieu of service of the notice of deposit described herein, where a state agency has been served with an affidavit pursuant to subdivision (c) of Section 708.730 and has presented the claim of the judgment creditor to the Controller pursuant to subdivision (a) of Section 708.740, the state agency shall cause a notice of deposit to be sent to the judgment debtor instructing the judgment debtor to file any and all requests for relief with the district attorney who filed the affidavit, or the court clerk if the seizure arises under subdivision (e) of Section 708.740. Except in those cases arising under subdivision (e)

of Section 708.740, the judgment debtor shall file the request for relief with the district attorney within 15 days after service of notice from the public agency, or the judgment debtor shall be deemed to have waived any claim he or she might otherwise have. If the matter cannot be resolved with the district attorney, the district attorney shall so advise the judgment debtor and the judgment debtor shall then be authorized to commence proceedings under this section or any other appropriate provision of law. The notice from the district attorney shall for any limitation have the same effect as a notice of deposit under subdivision (a). Service of any notice or request under this subdivision shall be made personally or by mail.

Claims arising from the filing of an abstract or certified copy of a judgment, under subdivision (e) of Section 708.740 shall be governed by the procedure and limitations set forth in subdivisions (a) through (f).

SEC. 3.5. Section 708.780 of the Code of Civil Procedure is amended to read:

708.780. (a) Filing of the abstract or certified copy of the judgment and the affidavit pursuant to this article creates a lien on the money owing and unpaid to the judgment debtor by the public entity in an amount equal to that which may properly be applied to the satisfaction of the money judgment under this article.

(b) When an affidavit is filed pursuant to subdivision (c) of Section 708.730, it shall apply to all overpayments of tax, penalty, interest, or interest allowable with respect to an overpayment which the judgment debtor subsequently claims during a period one year after filing of the affidavit, or October 1 of the year following the filing of the affidavit, whichever occurs later, the same as if claims for these overpayments were filed by the judgment debtor with the appropriate state agency on the date the affidavit was filed.

SEC. 4. Section 708.795 of the Code of Civil Procedure is amended to read:

708.795. Except as to sums due and unpaid under a judgment for child support, nothing in this article authorizes the filing against an overpayment of tax, penalty, or interest, or interest allowable with respect to an overpayment, under Part 10 (commencing with Section 17001), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code or under Division 6 (commencing with Section 13000) of the Unemployment Insurance Code.

SEC. 5. Any state agency that incurs administrative costs because of the requirements of this act shall seek any federal funds available for reimbursement of those costs. To the extent that reimbursement is unavailable, any such agency may impose a fee to cover the reasonable costs of its administrative expenses incurred pursuant to this act.

SEC. 6. 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. 7. 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 1011

An act to amend Sections 4212 and 4213 of the Commercial Code, and to add Article 1.8 (commencing with Section 866) to Chapter 7 of Division 1 of the Financial Code, relating to financial institutions.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 4212 of the Commercial Code is amended to read:

4212. (1) If a collecting bank has made provisional settlement with its customer for an item and itself fails by reason of dishonor, suspension of payments by a bank or otherwise to receive a settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer's account or obtain refund from its customer whether or not it is able to return the items if by its midnight deadline or within a longer reasonable time after it learns the facts it returns the item or sends notification of the facts. These rights to revoke, charge back and obtain refund terminate if and when a settlement for the item received by the bank is or becomes final (subdivision (3) of Section 4211 and subdivisions (2) and (3) of Section 4213).

(2) Within the time and manner prescribed by this section and Section 4301, an intermediary or payer bank, as the case may be, may return an unpaid item directly to the depository bank and may send for collection a draft on the depository bank and obtain reimbursement. In such case, if the depository bank has received provisional settlement for the item, it shall reimburse the bank drawing the draft, and any provisional credits for the item between banks shall become and remain final.

(3) A depositary bank which is also the payer may charge back the amount of an item to its customer's account or obtain refund in accordance with the section governing return of an item received by a payer bank for credit on its books (Section 4301).

(4) The right to charge back is not affected by

(a) Prior use of the credit given for the item; or

(b) Failure by any bank to exercise ordinary care with respect to the item but any bank so failing remains liable.

(5) A failure to charge back or claim refund does not affect other rights of the bank against the customer or any other party.

(6) If credit is given in dollars as the equivalent of the value of an item payable in a foreign currency the dollar amount of any chargeback or refund shall be calculated on the basis of the buying sight rate for the foreign currency prevailing on the day when the person entitled to the chargeback or refund learns that it will not receive payment in ordinary course.

(7) The right to obtain refund is not affected by

(a) Prior use of the credit given for the item; or

(b) Failure by any bank to exercise ordinary care with respect to the item except to the extent of the bank's liability therefor.

SEC. 1.5. Section 4213 of the Commercial Code is amended to read:

4213. (1) An item is finally paid by a payer bank when the bank has done any of the following, whichever happens first:

(a) Paid the item in cash; or

(b) Settled for the item without having a right to revoke the settlement under any of the following: statute, clearinghouse rule, agreement, or reservation thereof; or

(d) Settled for the item having a right to revoke the settlement under any one or more of the following: statute, clearinghouse rule, agreement or reservation thereof, and failed to revoke the settlement in the time and manner permitted under such right.

Upon final payment under paragraphs (b) or (d) the payer bank shall be accountable for the amount of the item.

(2) If provisional settlement for an item between the presenting and payer banks is made through a clearinghouse or by debits or credits in an account between them, then to the extent that provisional debits or credits for the item are entered in accounts between the presenting and payer banks or between the presenting and successive prior collecting banks seriatim, they become final upon final payment of the item by the payer bank.

(3) If a collecting bank receives a settlement for an item which is or becomes final (subdivision (3) of Section 4211, subdivision (2) of this section) the bank is accountable to its customer for the amount of the item and any provisional credit given for the item in an account with its customer becomes final.

(4) Subject to any right of a bank or other depository institution to apply the credit to an obligation of the customer, credit given by a bank or other depository institution for an item in an account with its customer becomes available for withdrawal as of right.

(a) In any case where the bank or other depository institution has received a provisional settlement for the item, at the expiration of a reasonable time for the collection and return of that item as

prescribed in regulations of an appropriate state regulatory agency, unless the bank or other depository institution has received notice that settlement will not become final, or if there are no such regulations, when the settlement has become final and the bank or other depository institution has had a reasonable time to receive notice of the return of the item. The terms of this subdivision and the regulations issued pursuant to this subdivision shall not be varied by agreement.

(b) In any case where a bank or other depository institution is both a depository and a payer and the item is finally paid—at the opening of the institutions second business day following receipt of the item.

(5) A deposit of money in a bank is final when made but, subject to any right of the bank to apply the deposit to an obligation of the customer, the deposit becomes available for withdrawal as of right at the opening of the bank's next banking day following receipt of the deposit.

SEC. 2. Article 1.8 (commencing with Section 866) is added to Chapter 7 of Division 1 of the Financial Code, to read:

Article 1.8. Disclosure of Delayed Availability Policy

866. As used in this article:

(a) "Depository institution" means any of the following:

(1) Any insured bank as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.) or any bank which is eligible to make application to become an insured bank under Section 5 of the act.

(2) A mutual savings bank as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.) or any bank which is eligible to make application to become an insured bank under Section 5 of the act.

(3) A savings bank as defined in Section 3 of the Federal Deposit Insurance Act (12 U.S.C. Sec. 1811 et seq.) or any bank which is eligible to make application to become an insured bank under Section 5 of the act.

(4) An insured credit union as defined in Section 101 of the Federal Credit Union Act (12 U.S.C. Sec. 1751 et seq.) or any credit union which is eligible to make application to become an insured credit union pursuant to Section 201 of that act.

(5) Any member as defined in Section 2 of the Federal Home Loan Bank Act (12 U.S.C. Sec. 1421 et seq.).

(6) Any insured institution as defined in Section 401 of the National Housing Act (12 U.S.C. Sec. 1701 et seq.) or any institution which is eligible to make application to become an insured institution under Section 403 of that act.

(b) "Deposit account" means an account in a depository institution on which the account holder is permitted to make withdrawals from time to time in person by negotiable or

transferable instrument, payment orders of withdrawal, telephone transfers, or other similar items for the purpose of making payments or transfers to third persons or others. The term includes demand deposits, negotiable order of withdrawal draft accounts, savings deposits subject to automatic transfers, share draft accounts, and all savings deposits and share accounts, other than time deposits.

866.2. (a) Prior to opening a deposit account a depository institution shall provide a written disclosure to the potential customer of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account.

(b) A depository institution shall furnish its customers preprinted deposit slips, envelopes for automatic teller machine deposits, or other individual notice bearing a conspicuous summary statement of its general policy with respect to when a customer may withdraw funds deposited by check or similar instrument into the customer's deposit account; and, in the case of a particular deposit by check or similar instrument into a deposit account for which funds may not be immediately available for withdrawal, provide specific notice of the time the customer may withdraw such funds.

866.3. For the purposes of computing the amount of interest or dividends payable with respect to an interest-bearing deposit account, a depository institution shall not delay beginning to compute interest on funds deposited by check or similar instrument to such an account beyond the date on which that depository institution receives provisional credit for the check or similar instrument. However, the payment of interest with respect to funds deposited by check or similar instrument which is returned unpaid shall not be required.

866.4. Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed pursuant to this article shall be liable to the aggrieved party in an amount equal to the sum of any actual damage sustained by the person as a result of the failure; and, in the case of an individual action an additional amount as the court may allow, except that the amount shall not be less than fifty dollars ($50) or greater than five hundred dollars ($500); or, in the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of five hundred thousand dollars ($500,000) or 1 percentum of the net worth of the depository institution; and, in the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of

compliance, the resources of the depository institution, the number of persons adversely affected, and the extent to which the failure of compliance was intentional.

A depository institution may not be held liable in any action brought under this section for a violation of this article if the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors. An error of legal judgment with respect to a person's obligations under this article shall not constitute a bona fide error.

Any action under this section may be brought in any court of competent jurisdiction, within one year from the date of the occurrence of the violation.

No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Federal Reserve Board or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the board to issue interpretations or approvals under such procedures as the board may prescribe therefor, notwithstanding that after any act or omission has occurred, the rule, regulation, interpretation, or approval is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

866.5. The appropriate state regulatory agency for each depository institution shall issue administrative regulations pursuant to Section 4213 of the Commercial Code to define a reasonable time for permitting customers to draw on items received for deposit in the customer's account. It is the public policy of this state to provide retail banking customers with the right to withdraw against items deposited with any depository institution located in this state within a reasonable period of time.

866.6. Pursuant to Section 866.5, the Superintendent of Banks, the Savings and Loan Commissioner, and the Commissioner of Corporations shall each promulgate regulations which shall be reviewed annually to establish a reasonable period of time within which a depository institution must permit a customer to draw as a matter of right on an item which has been received for deposit in the customer's account.

In determining what constitutes a reasonable period of time the appropriate state regulatory agencies shall consider the following factors:

(a) The actual time for processing and transport between the depository and payer institutions.

(b) The fastest air transport time between depository and payer institutions to be used for purposes of setting the reasonable time for transport.

(c) The most expeditious route and means for processing of

returned items.

866.7. The appropriate state regulatory agencies are authorized to gather from depository institutions such information as may be necessary for the formulation and promulgation of the regulations required by Section 866.5.

866.8. The first regulations issued pursuant to this article shall be issued on or before July 1, 1984.

866.9. The Superintendent of Banks, the Savings and Loan Commissioner, and the Commissioner of Corporations are authorized to issue regulations which provide for a different period of time for withdrawal as a matter of right against deposited items, if there has been a determination that the application of the regulations adopted pursuant to this article would result in unsafe or unsound practices by a depository institution subject to the regulatory jurisdiction of the respective state regulatory agency.

SEC. 3. It is not the intent of the Legislature in enacting this act to affect a depository institution's existing right to accept or reject an item for deposit.

CHAPTER 1012

An act to amend Sections 13440 and 13480 of, and to add Sections 13440.5, 13570, and 13571 to, the Business and Professions Code, relating to motor vehicle fuels.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 13440 of the Business and Professions Code is amended to read:

13440. (a) Gasoline, as defined in this chapter, means any liquid petroleum product which conforms to the specifications of this article. The department may adopt and enforce rules and regulations necessary to carry out this article. In adopting the rules and regulations, the department shall adopt the latest standards as set forth in American Society for Testing and Materials D-439, except that vapor pressure specifications shall not be more than the maximum specified by any California state law.

(b) Any gasoline blend containing methanol shall also contain an alcohol cosolvent (butanol (C_4) or higher molecular weight alcohol) in an amount equal to or greater than the volume percentage of methanol except those blends previously granted a waiver by the Environmental Protection Agency.

SEC. 2. Section 13440.5 is added to the Business and Professions Code, to read:

13440.5. For purposes of determining the percentage of a motor

fuel (including gasohol) which consists of alcohol, the volume of alcohol includes the volume of any denaturant (including gasoline) which is added to the extent that these denaturants do not exceed 5 percent of the volume of the alcohol (including denaturants).

SEC. 3. 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 vehicle fuel which contains at least 1 percent by volume ethanol (ethyl alcohol) or methanol (methyl alcohol), or a combination thereof, there shall be conspicuously displayed on the dispensing device at least one sign or label correctly stating the applicable one of the following statements:

(1) "Contains alcohol (ethanol)."

(2) "Contains alcohol (methanol)."

(3) "Contains alcohol (ethanol and methanol)."

(e) 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.

(f) 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.

(g) 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.

(h) 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. 4. Section 13570 is added to the Business and Professions Code, to read:

13570. Any manufacturer, hauler, blender, agent, jobber, consignment agent, or distributor who distributes motor vehicle fuel products which contain at least 1 percent alcohol by volume, shall state on any invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentage of alcohol, the type of alcohol, and, except in documentation certifying the octane rating of gasoline as required by federal law, the minimum antiknock index number, as defined in Section 13403, of the products distributed.

SEC. 5. Section 13571 is added to the Business and Professions Code, to read:

13571. Copies of the documentation specified in Section 13570 shall be available for inspection during business hours by duly authorized representatives of the department.

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 1013

An act to amend and renumber Section 66412.2 of, and to add Section 66412.2 to, the Government Code, to amend Sections 34314, 34315, 50517, 50532, 50680, 50687.5, 50705, and 50736 of the Health and Safety Code, and to add Section 21080.17 to the Public Resources Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 66412.2 of the Government Code is amended and renumbered to read:

66412.3. In carrying out the provisions of this division, each local agency shall consider the effect of ordinances and actions adopted pursuant to this division on the housing needs of the region in which

the local jurisdiction is situated and balance these needs against the public service needs of its residents and available fiscal and environmental resources.

SEC. 1.5. Section 66412.2 is added to the Government Code, to read:

66412.2. This division shall not apply to the construction, financing, or leasing of dwelling units pursuant to Section 65852.1 or second units pursuant to Section 65852.2, but this division shall be applicable to the sale or transfer, but not leasing, of those units.

SEC. 2. 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, or a 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. 3. 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, or a 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. 4. Section 50517 of the Health and Safety Code is amended to read:

50517. The Housing Predevelopment Loan Fund shall be administered by the director and such persons within the department as the director may designate.

The revolving loan fund shall be administered in accordance with the following:

(a) The department may not commit more than 20 percent of the total moneys appropriated to the fund to any single borrower at any point in time.

(b) The department shall require adequate security for all loans made from the revolving loan fund. The term "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option except that in the case of Indian trust land a mortgage on a leasehold interest in the property shall be acceptable.

(c) The department shall, from time to time, direct the Treasurer to invest moneys of the revolving loan fund which are not required for its current needs in such eligible securities as the department shall designate from among those specified in Section 16430 of the Government Code. The department may direct the Treasurer to deposit moneys from the revolving loan fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The department may alternatively require the transfer of moneys in the revolving loan fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest, dividends, and pecuniary gains from such investments or deposits shall accrue to the Housing Predevelopment Loan Fund.

(d) In complying with the provisions of Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the revolving loan fund. The report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the

rents in assisted units, (4) the number and amount of loans made to each local governmental agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, (6) recommendations, as needed, to improve operations of the revolving loan fund, (7) the number of loans made at interest rates lower than the average rate returned by the investment of state funds through the Pooled Money Investment Board for the past five fiscal years and the income of households assisted by such loans, (8) the public transportation services conveniently available to assisted households, and (9) the number of manufactured housing units assisted under Section 50516 and this section.

(e) (1) Except as provided in paragraph (2) of this subdivision, the balance of any loan made from the Housing Predevelopment Loan Fund which remains unpaid on the effective date of the act amending this section enacted at the 1983–84 Regular Session of the Legislature, except any portion which is delinquent, and all loans made from that fund on or after that date, shall bear interest at a rate of 7 percent per annum.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households, as described in Section 50105. However, if the department eliminates interest on a loan, it shall charge a loan origination fee of not to exceed 2 percent of the loan amount.

(f) The department may make loans for the development of mobilehome parks and manufactured housing subdivisions.

SEC. 5. Section 50532 of the Health and Safety Code is amended to read:

50532. (a) The department shall require adequate security for all loans made from the loan fund. For purposes of this subdivision "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option, except that in the case of Indian trust land a mortgage on a leasehold interest in the property shall be acceptable.

(b) No loan may be made pursuant to this chapter unless the department may reasonably anticipate that a commitment can be obtained by the nonprofit corporation or local agency for construction financing or long-term financing that will permit occupancy as specified in Section 50531.

(c) (1) Except as provided in paragraph (2) of this subdivision, the balance of any loan made from the loan fund which remains unpaid on the effective date of the act amending this section enacted at the 1983–84 Regular Session of the Legislature, except any portion which is delinquent, and all loans made from that fund on or after that date, shall bear interest at a rate of 7 percent per annum.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department

determines such action is necessary for the provision of decent housing to very low income households. However, if the department eliminates interest on a loan, it shall charge a loan origination fee, not to exceed 2 percent of the loan amount.

(d) In complying with the provisions of Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the loan fund. The report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents in assisted units, (4) the number and amount of loans made to each agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, (6) recommendations, as needed, to improve operations of the fund, and (7) the location of housing developments aided in relation to public transit corridors.

(e) Other things being equal, the department shall give priority to assisting developments which will be located in public transit corridors.

SEC. 6. 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 those persons in programs of rehabilitation, education, and social services within the community. Because of the outpatient status of persons enrolled in those programs, there is a need to provide housing for them which will aid in accomplishment and maintenance of the objectives of those programs, thereby minimizing the numbers of developmentally disabled, mentally disordered, and physically disabled persons in public institutions and improving the quality of life for those 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 authority to obtain federal housing subsidies for housing for persons requiring supportive services, as defined in this part.

SEC. 7. 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 department shall submit applications for federal housing subsidies for persons requiring supportive services.

SEC. 8. Section 50705 of the Health and Safety Code is amended

to read:

50705. (a) Except as provided in subdivision (b), the balance of any loan made pursuant to this chapter which remains unpaid on the effective date of the act amending this section enacted at the 1983–84 Regular Session of the Legislature, except any portion which is delinquent, and all loans made from that fund on or after that date, shall bear interest at a rate of 7 percent per annum.

(b) The department may reduce or eliminate interest on loans made pursuant to this chapter if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households. If the department eliminates interest on a loan pursuant to this subdivision, it shall charge a loan origination fee of not more than 2 percent of the loan amount.

(c) All moneys received in repayment of those loans, including interest, and any other moneys received by the department pursuant to this chapter shall be deposited in the Rural Land Purchase Fund.

SEC. 9. Section 50736 of the Health and Safety Code is amended to read:

50736. (a) Not less than 30 percent of the units in each rental housing development consisting of ten or more units which receives any funds pursuant to this chapter shall be available on a priority basis to or occupied by eligible households pursuant to the agreement required by Section 50739, and not less than 20 percent of all the units in each rental housing development shall be available on a priority basis to, or occupied by, very low income households.

(b) Every sponsor shall, with respect to assisted units, conduct an affirmative marketing program, on a continuous basis, which program has been approved by the department or by the agency in cases where the agency provides financing. For the purposes of this subdivision, "affirmative marketing program" means any program approved by the department that is designed to achieve greater access to housing opportunities created by this chapter for eligible households. Such program shall include educational, promotional, and other appropriate activity designed to secure greater housing opportunities for those households. Where a significant number of persons in a community have limited fluency in the English language, publications implementing an affirmative marketing program in that community shall be provided in the native language of those persons.

(c) Of all assisted units, under this chapter, not less than two-thirds shall be allocated to very low income households and the balance for lower income households.

(d) Elderly or physically handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the assisted units provided pursuant to this chapter. Other handicapped households shall be eligible for assisted units pursuant to this subdivision or subdivision (a), (b), (c), or (e) if they otherwise meet the requirements imposed by those provisions.

(e) The department shall ensure that not less than 20 percent of all units assisted pursuant to this chapter shall be allocated to rural areas.

SEC. 10. Section 21080.17 is added to the Public Resources Code, to read:

21080.17. This division does not apply to the adoption of an ordinance by a city or county to implement the provisions of Section 65852.1 or Section 65852.2 of the Government Code.

SEC. 11. Notwithstanding any other provisions of law, the encumbered and unencumbered balances of the two million five hundred thousand dollars ($2,500,000) of the amount appropriated by Item 2240-101-001 of the Budget Act of 1982 for local assistance is reappropriated on the effective date of this act for transfer to the Farmworker Housing Grant Fund for expenditure by the Farmworker Housing Grant Program pursuant to Section 50517.5 of the Health and Safety Code.

Notwithstanding Section 13340 of the Government Code, the money so reappropriated shall be available for expenditure without regard to fiscal year.

SEC. 12. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect The facts constituting the necessity are:

In order to assure that local agencies do not have to endure excessive and unnecessary costs and time delays in implementing state law relating to second dwelling units and in order to assure the timely and effective implementation of state housing programs, it is necessary that this act take effect immediately.

CHAPTER 1014

An act to add Section 66022 to the Education Code, relating to the California State University.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 66022 is added to the Education Code, to read:

66022. The Legislature determines that increases in student charges at the California State University shall be gradual, moderate, and predictable and that, in order to keep fees as low as possible, the state shall continue to bear primary responsibility for the cost of providing public postsecondary education. It is the intent of the Legislature that the adoption of this section in no way encourage or promote the imposition of tuition or additional fees. It is also the

intent of the Legislature that the state's long-term policy is to assume responsibility for providing financial assistance for students with demonstrated need.

Student charges in the California State University shall be set and adjusted according to the following formula. The level of charges for the California State University shall be within 10 percent to 20 percent of the average of the sum of the state General Fund appropriations and property tax revenues for the previous three years for the support of full-time equivalent students in public postsecondary education.

This section shall be operative commencing with the academic year which begins after July 1, 1984.

CHAPTER 1015

An act to amend Sections 1501.1 and 1502 of the Health and Safety Code, relating to community care facilities.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 1501.1 of the Health and Safety Code is amended to read:

1501.1. (a) It is the policy of the state to facilitate the proper placement of every child in residential care facilities where such placement is in the best interests of the child. The placement agencies shall actively seek out-of-home care facilities capable of meeting the varied needs of the child. Therefore, in placing children in out-of-home care, particular attention should be given to the individual child's needs, the ability of the facility to meet those needs, the needs of other children in the facility, the licensing requirements of the facility as determined by the licensing agency, and the impact of the placement on the family reunification plan.

(b) Pursuant to the provisions of this section, children with varying designations and varying needs, except as provided by statute, may be placed in the same facility provided the facility is licensed, complies with all licensing requirements relevant to the protection of the child, and has a special permit, if necessary, to meet the needs of each child so placed. Children with developmental disabilities, mental disorders, or physical disabilities may be placed in licensed foster family homes, provided that an appraisal of the child's needs and the ability of the receiving home to meet those needs is made jointly by the placement agency and the licensee, and is followed by written confirmation by the licensing agency prior to placement.

(c) Neither the requirement for any license nor any regulation

shall restrict the implementation of the provisions of this section. Implementation of this section does not obviate the requirement for a facility to be licensed by the department.

SEC. 2. 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 have mental disorders or developmental or physical disabilities and who require special care and supervision as a result of their disabilities.

Nothing in this section shall be construed to prohibit or discourage placement of persons who have mental or physical disabilities into any category of community care facility that meets the needs of the individual placed, if the placement is consistent with the licensing regulations of the department.

(b) "Department" or "state department" means the State Department of Social Services.

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

SEC. 3. (a) For the seven bay area child development programs

serving severely handicapped children, outstanding audit exceptions for the 1981–82 fiscal year shall be waived, except where there is evidence of fraud, if both of the following conditions occurred:

(1) The contract was the first in which a rate per hour was contained as a contract provision.

(2) The contract was executed in final form after December 31, 1981.

(b) These programs shall, in future years, be subject to the provisions of the normal contracting process.

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 1016

An act to add Section 2224.1 to the Civil Code, relating to felons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Victims of felonies have a special relationship to proceeds from the sale of stories about those felonies which are written by persons convicted of committing them.

(b) It is not the intent of the Legislature in enacting this act to criminalize the selling of stories about felonies by convicted felons, or to discourage, inhibit, or prevent anyone from exercising the fundamental right of freedom of expression.

SEC. 2. Section 2224.1 is added to the Civil Code, to read:

2224.1. (a) As used in this section:

(1) "Convicted felon" means any person convicted of a felony, or found not guilty by reason of insanity of a felony committed in California, either by a court or jury trial or by entry of a plea in court.

(2) "Felony" means a felony defined by any California or United States statute.

(3) "Representative of the felon" means any person or entity receiving proceeds by designation of that felon, or on behalf of that felon or in the stead of that felon, whether by the felon's designation or by operation of law.

(4) (A) "Beneficiary" means a person who, under applicable law,

other than the provisions of this section, has or had a right to recover damages from the convicted felon for physical, mental, or emotional injury, or pecuniary loss proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) If a beneficiary described in subparagraph (A) has died, "beneficiary" also includes a person or estate entitled to recover damages pursuant to Section 573 of the Probate Code.

(C) If a person has died and the death was proximately caused by the convicted felon as a result of the crime for which the felon was convicted, "beneficiary" also includes a person described in Section 377 of the Code of Civil Procedure and any beneficiary of a will of the decedent who had a right under that will to receive more than 25 percent of the value of the estate of the decedent.

(5) "Beneficiary's interest in the proceeds" means that portion of the proceeds necessary to pay the following:

(A) In the case of a beneficiary described in subparagraph (A) or (B) of paragraph (4), those damages which, under applicable law other than the provisions of this section, the beneficiary has or had a right to recover from the convicted felon for injuries proximately caused by the convicted felon as a result of the crime for which the felon was convicted.

(B) In the case of a beneficiary described in subparagraph (C) of paragraph (4), those damages which under all the circumstances of the case may be just.

(C) A beneficiary's interest in the proceeds shall be reduced by the following amount:

(i) Money paid to the beneficiary from the restitution fund because of the crime for which the felon was convicted.

(ii) Money paid to the beneficiary by the convicted felon because of a requirement of restitution imposed by a court in connection with the crime for which the felon was convicted.

(iii) Money paid to the beneficiary because of a judgment against the convicted felon based upon the crime for which the felon was convicted.

(D) In the case of an unsatisfied existing judgment or order of restitution against the convicted felon and in favor of a beneficiary, any money paid to the beneficiary pursuant to this section shall be applied to reduce the amount of the unsatisfied judgment or order.

(6) "Materials" means books, magazine or newspaper articles, movies, films, video tapes, sound recordings, interviews or appearances on television and radio stations, and live presentations of any kind.

(7) "Story" means a depiction, portrayal, or reenactment of a felony and shall not be taken to mean a passing mention of the felony, as in a footnote or bibliography.

(8) "Sale" includes lease, license, or any other transfer or alienation taking place in California or elsewhere.

(9) "Proceeds" means all fees, royalties, real property, or other consideration of any and every kind or nature received by or owing

to a felon or his or her representatives for the preparation for the purpose of sale of materials, for the sale of the rights to materials, or the sale or distribution by the convicted felon of materials whether earned, accrued, or paid before or after the conviction. It includes any interest, earnings, or accretions upon proceeds, and any property received in exchange for proceeds.

(b) All proceeds from the preparation for the purpose of sale, the sale of the rights to, or the sale of materials that include or are based on the story of a felony for which a convicted felon was convicted, shall be subject to an involuntary trust for the benefit of the beneficiaries set forth in this section. That trust shall continue until five years after the time of payment of the proceeds to the felon or five years after the date of conviction, whichever is later. If an action is filed by a beneficiary to recover his or her interest in a trust within those time limitations, the trust character of the property shall continue until the conclusion of the action.

(c) (1) Any beneficiary may bring an action against a convicted felon or representative of the felon to recover his or her interest in the trust established by this section.

(2) That action may be brought in the superior court of the county in which the beneficiary resides, or of the county in which the convicted felon resides, or of the county in which proceeds are located.

(3) If the court determines that a beneficiary is entitled to proceeds pursuant to this section, the court shall order the payment from proceeds which have been received, and, if that is insufficient, from proceeds which may be received in the future.

(d) If there are two or more beneficiaries and if the available proceeds are insufficient to pay all beneficiaries, the proceeds shall be equitably apportioned among the beneficiaries taking into account the impact of the crime upon them.

Prior to any distribution of any proceeds to a beneficiary, the court shall determine whether the convicted felon has failed to pay any portion of a restitution fine or penalty fine imposed by a court, or any restitution imposed as a condition of probation. The court shall also determine whether the felon is obligated to reimburse a governmental entity for the costs of his or her defense and whether a portion of the proceeds is needed to cover his or her reasonable attorney's fees incurred in the criminal proceeding related to the felony, or any appeal or other related proceeding, or in the defense of the action brought under this section. The court shall order payment of these obligations prior to any payment to a beneficiary, except that 10 percent of the proceeds shall be reserved for payment to the beneficiaries.

(e) (1) The Attorney General may bring an action to require proceeds received by a convicted felon to be held in an express trust in a bank authorized to act as a trustee.

(2) An action may be brought under this subdivision within six months after the receipt of proceeds by a convicted felon or six

months after the date of conviction, whichever is later.

That action may be brought in the superior court of any county in which the Attorney General has an office.

(3) If the Attorney General proves that the proceeds are proceeds from the sale of a story which are subject to an involuntary trust pursuant to this section, and that it is more probable than not that there are beneficiaries within the meaning of this section, the court shall order that all proceeds be deposited in a bank and held by the bank as trustee of the trust until an order of disposition is made by a court pursuant to subdivision (d), or until the expiration of the period specified in subdivision (b).

(4) If the Attorney General prevails in an action under this subdivision, the court shall order the payment from the proceeds to the Attorney General of reasonable costs and attorney's fees.

(f) In any action brought pursuant to subdivision (d) or (e), upon motion of a party the court shall grant a preliminary injunction to prevent any waste of proceeds if it appears that the proceeds are subject to the provisions of this section, and that they may be subject to waste.

(g) Any violation of an order of a court made pursuant to this section shall be punishable as contempt.

(h) The remedies provided by this section are in addition to other remedies provided by law.

No period of limitations, except those provided by this section, shall limit the right of recovery under this section.

SEC. 3. This act amplifies, supplements, and, except for subdivision (e) of Section 2224.1 of the Civil Code, is declaratory of existing law, as contained in Sections 2224 and 3517 of the Civil Code. Therefore, this act shall apply in the case of felonies committed and rights and materials sold before, as well as after, the effective date of this act.

SEC. 4. If any word, phrase, clause, or sentence in any section amended or added by this act, or any section or provision of this act, or application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other word, phrase, clause, or sentence in any section amended or added by this act, or any other section, provisions or application of this act which can be given effect without the invalid word, phrase, clause, sentence, section, provision or application and to this end the provisions of this act are declared to be severable.

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 public safety requires that persons who have committed heinous crimes not be allowed to profit from that wrongdoing, and that there is a need to clarify rights under existing law in view of controversy over presently contested rights.

CHAPTER 1017

An act to amend Sections 2805, 22651, and 25252.5 of the Vehicle Code, relating to vehicles.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 2805 of the Vehicle Code is amended to read:

2805. (a) For the purpose of locating stolen vehicles, a member of the California Highway Patrol, or a member of a city police department or county sheriff's office whose primary responsibility is to conduct vehicle theft investigations, may inspect any vehicle of a type required to be registered under this code or any indentifiable vehicle component thereof on a highway or in any public garage, repair shop, parking lot, new or used car lot, automobile dismantler's lot, vehicle shredding facility, vehicle leasing or rental lot, vehicle equipment rental yard, vehicle salvage pool, or other similar establishment, and may inspect the title or registration of vehicles, in order to establish the rightful ownership or possession of the vehicle or indentifiable vehicle component.

As used in this subdivision, "identifiable vehicle component" means any component which can be distinguished from other similar components by a serial number or other unique distinguishing number, sign, or symbol.

(b) A member of the California Highway Patrol, or a member of a city police department or county sheriff's office whose primary responsibility is to conduct vehicle theft investigations, may also inspect, for the purposes specified in subdivision (a), implements of husbandry, special construction equipment, and special mobile equipment in the places described in subdivision (a) or when such a vehicle is incidentally operated or transported upon a highway.

(c) Whenever possible, inspections conducted pursuant to subdivision (a) or (b) shall be conducted at a time and in a manner so as to minimize any interference with, or delay of, business operations.

SEC. 2. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located may remove a vehicle from a highway located within the territorial limits in which the officer or employee may act under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes

an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction or without a current California registration is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is

nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear for violation of subdivision (a) of Section 4000 shall be issued to that person.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) When any unattended vehicle is found upon a highway with a registration expiration date in excess of one year before the date it is found on the highway.

SEC. 3. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located may remove a vehicle from a highway located within the territorial limits in which the officer or employee may act under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in a position so as to obstruct the normal movement of traffic or in

a condition so as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move the vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move the vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is stopped, parked, or left standing for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade and the driver, if present, cannot move the vehicle under its own power.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to an extent so as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is, by this code or other law, required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction or without a current California registration is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until that person furnishes to the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that the bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that the bail has been deposited or accepting the notice to appear, that person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded. Evidence of current registration shall be produced after a vehicle has been impounded or a notice to appear

for violation of subdivision (a) of Section 4000 shall be issued to that person.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his or her identity and an address within this state at which he or she can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(*l*) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway, or any portion thereof, is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with that use or movement, and signs giving notice that the vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities, by resolution or ordinance, have prohibited parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

(o) When any unattended vehicle is found upon a highway with a registration expiration date in excess of one year before the date it is found on the highway. For purposes of this subdivision, the unattended vehicle shall be released to the owner or person in control of the vehicle only after the owner or person furnishes the storing law enforcement agency with proof of current registration. In lieu of obtaining proof of current registration, the storing agency may, in its discretion, issue a notice to appear for the registration violation.

(p) When the peace officer issues the driver of a vehicle a notice to appear for a violation of Section 12500, 14601, 14601.1, or 14601.2 and there is no passenger in the vehicle who has a valid driver's license and authorization to operate the vehicle. Any vehicle so removed from the highway shall not be released to the registered owner or his or her agent except upon presentation of the registered owner's or his or her agent's currently valid driver's license to operate the vehicle or upon order of a court.

SEC. 4. Section 25252.5 of the Vehicle Code is amended to read:

25252.5. (a) Every authorized emergency vehicle may be

equipped with a system which flashes the upper-beam headlamps of the vehicle with the flashes occurring alternately from the front headlamp on one side of the vehicle to the front headlamp on the other side of the vehicle. The flashing of the headlamps shall consist only of upper-beam flashing, and not the flashing of any other light beam.

(b) "Upper-beam headlamp," as used in this section, means a headlamp or that part of a headlamp which projects a distribution of light, or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 350 feet ahead for all conditions of loading.

(c) The system provided for in subdivision (a) shall only be used when an authorized emergency vehicle is being operated pursuant to Section 21055.

SEC. 5. Section 3 of this bill incorporates amendments to Section 22651 of the Vehicle Code proposed by both this bill and AB 1085. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 22651 of the Vehicle Code, and (3) this bill is enacted after AB 1085, in which case Section 2 of this bill shall not become operative.

CHAPTER 1018

An act to add Section 437.117 to the Health and Safety Code, and to add Sections 14302.1 and 14462 to the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 437.117 is added to the Health and Safety Code, to read:

437.117. Projects for freestanding outpatient surgery units which only perform cataract surgery under the state Medi-Cal program shall be exempt from the certificate of need requirement of this part.

SEC. 2. Section 14302.1 is added to the Welfare and Institutions Code, to read:

14302.1. Once it is determined that a contract shall be renewed pursuant to the provisions of this chapter with a prepaid health plan, by the state agency responsible for negotiating these contracts, the agency shall, no later than 25 working days prior to the expiration date of the existing contract or immediately, if that date has passed, draft an extension of the existing contract for a period not to exceed two calendar months. Such a contract extension shall contain the same terms as the prior existing contract except for the contract's

expiration date. The contract extension shall be for a period of time not to exceed two months from the termination date of the original contract.

The state agency responsible for negotiating the contract shall simultaneously submit to each federal and state agency required to approve a contract extension, a draft of the contract for extension no later than 20 working days prior to the expiration date of the prior existing contract.

Each state agency to which an extension for contract has been submitted shall approve or disapprove the extension no later than 10 working days after receipt of the contract.

In the course of any contract negotiations, the responsible state agency shall encourage the participation of other involved state and federal agencies in the negotiation process and shall cooperate with those agencies and with the contractor, or proposed contractor, to seek the resolution of any obstacles to contractual agreement.

No extension shall become effective until and unless federal approval is received indicating that federal funds will be available for services provided under the Medi-Cal program during the period of the contract extension.

These contract extensions shall remain in force and effect until such time as:

(1) The contract expires because the extension date has been reached.

(2) The contract for renewal is entered into and is in force and effect.

(3) The state agency responsible for negotiating the contract determines not to contract or renew a contract with the provider and notifies the provider in writing to that effect.

(4) The state agency responsible for negotiating the contract terminates the contract in accordance with Section 14304.

When contract renewals are entered into, the effective date of the contract shall be the termination date of the prior contract, not the ending date of any contract extension. The state agency responsible for negotiating the contract, once a new contract is finalized, shall retroactively make adjustments in any amounts paid under the contract extension to reflect the new terms and rates of reimbursements as provided in the new contract.

It is the intent of the Legislature to provide for the payment of services provided for under this chapter in a timely and efficient manner. Nothing in this chapter shall be construed as to hinder, prohibit, or interfere with the negotiating and contract process of the responsible state agency and provider.

The provisions of this section shall apply only to those instances in which both parties have reason to believe that their contract renewal process will not be completed by the termination date of the contract.

SEC. 3. Section 14462 is added to the Welfare and Institutions Code, to read:

14462. In accordance with Section 14081.5, the provisions of Section 15459 of the Government Code shall not be applicable to a hospital, whether or not it negotiates to obtain a contract pursuant to Article 2.6 (commencing with Section 14081), if the hospital predominantly serves or will predominantly serve members of a health maintenance organization that has negotiated in good faith to obtain a prepaid contract pursuant to this part or pursuant to Article 2.91 (commencing with Section 14089).

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 effect a savings within the state Medi-Cal program of two thousand dollars ($2,000) to two thousand five hundred dollars ($2,500) per cataract surgery case, and in order to avoid unreasonable delays in contracting with Medi-Cal providers, it is necessary that this act take effect immediately.

CHAPTER 1019

An act to amend Sections 12511 and 12512 of the Water Code and to amend Section 7.2 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959), relating to water agencies.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 12511 of the Water Code, as amended by Chapter 564 of the Statutes of 1983, is amended to read:

12511. (a) Until July 1, 1985, the board consists of eight members appointed by the Governor as provided in this chapter, two of whom shall be public members appointed by the Governor, and the Director of Water Resources and the Director of Fish and Game or their designees.

(b) On and after July 1, 1985, the board consists of seven members apointed by the Governor as provided in this chapter, one of whom shall be a public member, appointed by the Governor, and the Director of Water Resources and the Director of Fish and Game or their designees.

SEC. 2. Section 12512 of the Water Code, as added by Chapter 564 of the Statutes of 1983, is amended to read:

12512. The governing bodies of the San Diego County Water Authority, Palo Verde Irrigation District, Imperial Irrigation District, Coachella Valley Water District, the Metropolitan Water District of Southern California, and the Department of Water and Power of the City of Los Angeles shall each submit to the Governor

two lists of not less than three persons on each with a recommendation as to whom should be appointed from one list as its member on the board and from the other list as its alternate on the board. The Governor shall appoint each agency's member and alternate from the designated lists. If, after 60 days following submission of the initial or any new list, the Governor has not made an appointment, the person recommended by the governing body shall be deemed appointed. Each governing body if it desires to have a new member or alternate, or both, may submit new lists at any time. A member of the governing body of an agency may be appointed as a member of the board or as an alternate. Each alternate shall, in the absence of the appointed member for any cause, including vacancy in the office of the appointed member, have all the authority and rights of the member to which he or she is an alternate.

SEC. 3. Section 7.2 of the Amador County Water Agency Act (Chapter 2137 of the Statutes of 1959) is amended to read:

SEC. 7.2. Within 30 days after the election prescribed in Section 7 and thereafter within 30 days after those who are elected at the succeeding elections take office, the directors shall meet and organize as a board. The board shall:

Elect one of its members president; provide for the time and place of holding its regular meetings; and provide for the manner of calling special meetings. The board shall act only by ordinance, resolution, or motion and the enacting clause of all ordinances passed by the board shall be: "Be it ordained by the Board of Directors of the Amador County Water Agency as follows:". All ordinances shall be signed by the president and attested by the secretary and shall be adopted, recorded, and published in the same manner, except as herein otherwise expressly provided, as are ordinances of the county. A majority of the board shall constitute a quorum for the transaction of business, and the board may transact any business of the agency at its organization meeting.

The board shall establish rules for its proceedings and all legislative sessions of the board shall be public.

The board may authorize each director to receive compensation not exceeding one hundred dollars ($100) per day for each day's attendance at meetings of the board, or committee thereof, or for each day's service rendered as a director by request of the board, not exceeding a total of six days in any calendar month, together with any expenses incurred in the performance of his duties required or authorized by the board.

CHAPTER 1020

An act to add and repeal Section 741 of the Insurance Code, relating to insurance.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 741 is added to the Insurance Code, to read:

741. (a) Section 740 shall not apply to an employee welfare benefit plan established pursuant to the Employee Retirement Income Security Act of 1972 (29 U.S.C. Sec. 1001) prior to December 31, 1983, if all of the following conditions exist:

(1) The plan is sponsored by a professional trade association incorporated in 1958.

(2) The plan was initially funded on September 1, 1983.

(3) All of the employer members of the plan belong to the sponsoring professional trade association.

(4) The plan is insured in whole or in part.

(5) To the extent that the plan is not fully insured, the plan discloses to any purchaser, prospective purchaser, covered person or entity all financial and operational information relative to the content and scope of the plan and, specifically, the lack of insurance or other coverage.

(b) This section shall remain in effect until January 1, 1986, and on that date is repealed unless a later enacted statute deletes or extends that date.

CHAPTER 1021

An act to amend Sections 68073.4 and 74133 of the Government Code, and to add Section 1760.6 to the Welfare and Institutions Code, relating to government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 68073.4 of the Government Code is amended to read:

68073.4. Notwithstanding any other provision of law, to assist a county in the funding of county criminal justice facilities construction and the improvement of criminal justice automated information systems, the board of supervisors, operative upon the

adoption of a resolution stating that the provisions of this section and Section 1206.8 of the Penal Code are necessary to the establishment of adequate county criminal justice facilities in the county, may establish in the county treasury a County Criminal Justice Facility Temporary Construction Fund. Deposits shall be made to the fund, as follows:

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

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

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

The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys in the County Criminal Justice Facility Temporary Construction Fund shall be payable only for construction, reconstruction, expansion, improvement, operation, or maintenance of county criminal justice and court facilities, and for improvement of criminal justice automated information systems. The money in the fund may be used through any public agency funding mechanism, including, but not limited to, retirement of bonded indebtedness, loan repayments, and monthly payments involving lease-purchase programs, which reduce an obligation incurred in reliance upon the authority granted by this section.

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

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

SEC 2. Section 74133 of the Government Code is amended to read:

74133. (a) There shall be one clerk of each judicial district who shall be appointed by and hold office at the pleasure of the judge or a majority of the judges of the judicial district. The clerk shall serve

as the court administrator.

(b) There shall be one Marshal of the Desert Judicial District who shall be elected by the voters of the district. There shall be one Marshal of the Riverside Judicial District who shall also be ex officio, the Marshal of the Corona, Mt. San Jacinto, and Three Lakes Judicial Districts and who shall be elected by the voters of all four judicial districts. Any qualified incumbent marshal shall be entitled to be appointed as a deputy marshal if he is superseded pursuant to this subdivision, and an additional position may be created for such purpose, if necessary.

(c) Notwithstanding subdivision (b), the board of supervisors may submit to the voters of the county at a countywide general election the question whether the Marshal of the Desert Judicial District and the Marshal of the Riverside Judicial District shall be selected by a majority vote of the judges of the respective district, rather than elected, in which case those judges shall be the appointing authority. If a majority of the voters voting on the issue at such an election favor appointment rather than election, the terms of office of the incumbent Marshal of the Desert Judicial District and the incumbent Marshal of the Riverside Judicial District shall not be affected and the judges of the districts shall, whenever such offices become vacant or on the expiration of the terms of office, forthwith fill those offices by appointment, the appointees to serve at the pleasure of the judges of the district.

SEC. 3. Section 1760.6 is added to the Welfare and Institutions Code, to read:

1760.6. The director may require wards of the Youth Authority to perform work necessary and proper to construct, renovate, or maintain facilities of the Youth Authority. For purposes of this section, and notwithstanding Section 10108 of the Public Contract Code, the department may renovate or maintain facilities of the Youth Authority with hired or staff labor forces, so long as wards of the Youth Authority are utilized as a majority of the labor force and so long as the estimated cost of the project, if contracted, does not exceed two hundred thousand dollars ($200,000). The department may provide for the payment of wages to wards of the Youth Authority for work performed pursuant to this section, the sums earned to be paid in reparation, or to the parents or dependents of the ward, or to the ward, in such manner and in such proportions as the department directs.

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 emergency are:

(a) In order to clarify the permissible uses of funds in a County Criminal Justice Facility Temporary Construction Fund as soon as possible, it is necessary that Section 1 of this act take effect immediately.

(b) The Board of Supervisors of Riverside County has requested

the authority to put the question of the method of selection of the Marshals of Riverside County on the November, 1983, countywide general election in order to preserve county funds. In order to provide such authority in time for that election it is necessary that Section 2 of this act take effect immediately.

(c) In order to provide for the immediate utilization of wards of the Youth Authority in the renovation and maintenance of facilities of the Youth Authority, it is necessary that Section 3 of this act take effect immediately.

CHAPTER 1022

An act to add Section 7054.7 to the Health and Safety Code, relating to human remains.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 7054.7 is added to the Health and Safety Code, to read

7054.7. (a) Except with the express written permission of the person entitled to control the disposition of the remains, no person shall:

(1) Cremate the remains of more than one person at the same time in the same cremation chamber.

(2) Dispose of or scatter cremated remains in such a manner or in such a location that the remains are commingled with those of another person. The provisions of this paragraph shall not apply to the burial of cremated remains at sea from individual containers or to the scattering or burial of cremated remains in a dedicated cemetery in a garden area used exclusively for such purposes.

(3) Place cremated or uncremated remains of more than one person in the same container or the same interment plot. This paragraph shall not apply to the following:

(A) Interment of members of the same family in a common container designed for the cremated remains of more than one person.

(B) Interment in a plot or container that has been previously designated at the time of sale as being intended for the interment of remains of more than one person.

(b) Written permission from the person entitled to control the disposition of the cremated remains shall be obtained by the person with whom arrangements are made for disposition of the remains and in such form as shall be prescribed by the Cemetery Board. The document shall be filed with and retained by the person who disposes of or inters the remains.

(c) Any person, including any corporation or partnership, violating any provision of this section 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 1023

An act to amend Section 4085 of the Business and Professions Code, relating to pharmacy.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 4085 of the Business and Professions Code is amended to read:

4085. The board shall register as registered pharmacists, and issue a certificate to all applicants who meet the following requirements:

(a) That the applicant is 18 years of age.

(b) That the applicant has either (1) graduated from a college of pharmacy or department of pharmacy of a university recognized by the board, which school or college of pharmacy or department of pharmacy of a university requires a resident attendance of not less than eight calendar months of each year of its course or, (2) if the applicant was a nonresident of the United States for at least five of the 10 years prior to enrollment in a foreign pharmacy school, and the applicant has graduated from a foreign pharmacy school, (A) that the applicant has successfully completed, in the foreign pharmacy school or by a combination of coursework in the foreign pharmacy school and a college of pharmacy or department of pharmacy of a university recognized by the board, the courses established by the board as being equivalent to those required for domestic graduates or, (B) That the applicant has received a grade satisfactory to the board on an examination designed to measure the equivalency of foreign pharmacy education with that required of domestic graduates.

(c) That the applicant has completed 3,200 hours of coursework in pharmacy. The course in pharmacy shall consist of not less than 3,200 hours distributed over a period of not less than four years. Any student, however, may complete the required course of 3,200 hours in a lesser period of time.

(d) That the applicant has had 1,500 hours of practical experience in accordance with regulations adopted by the board.

(e) That the applicant has passed a written and practical examination given by the board.

CHAPTER 1024

An act to amend and repeal Sections 39651 and 81651 of the Education Code, relating to school districts.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 39651 of the Education Code is amended to read:

39651. The governing board of any school district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

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 enacted before January 1, 1989, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1989, pursuant to Section 9611 of the Government Code, Section 39651 of the Education Code, as amended by Section 152 of Chapter 36 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 2. Section 81651 of the Education Code is amended to read:

81651. The governing board of any community college district may purchase supplementary textbooks, library books, educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district without taking estimates or advertising for bids.

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 enacted before January 1, 1989, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1989, pursuant to Section 9611 of the Government Code, Section 81651 of the Education Code, as amended by Section 327 of Chapter 36 of the Statutes of 1977, shall have the same force and effect as if this temporary provision had not been enacted.

CHAPTER 1025

An act to add Section 21162 to the Public Resources Code, relating to environmental quality.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 21162 is added to the Public Resources Code, to read:

21162. A copy of the notice of completion of an environmental impact report on a project shall be provided, by the State Clearinghouse, to any legislator in whose district the project has an environmental impact, if the legislator requests the notice and the State Clearinghouse has received it.

CHAPTER 1026

An act to amend Sections 3502, 3503, 3505, 3509, 3509.5, 3510, 3511, 3512, 3514, 3515, 3516, 3516.5, 3517, 3518, 3519, 3520, 3521, 3522, and 3524 of, to add Sections 3521.1 and 3521.2 to, and to repeal and add Sections 3523 and 3526 to, the Business and Professions Code, and to amend Section 13401.5 of the Corporations Code, relating to the healing arts.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 3502 of the Business and Professions Code is amended to read:

3502. Notwithstanding any other provision of law, a physician's assistant may perform those medical services as set forth by the regulations of the board when such services are rendered under the supervision of a licensed physician or physicians approved by the board.

Notwithstanding any other provision of law, a trainee may perform those medical services as set forth by the regulations of the board when such services are rendered within the scope of an approved program.

No medical services may be performed under this chapter in any of the following areas:

(a) The determination of the refractive states of the human eye, or the fitting or adaptation of lenses or frames for the aid thereof.

(b) The prescribing or directing the use of, or using, any optical

device in connection with ocular exercises, visual training or orthoptics.

(c) The prescribing of contact lenses for, or the fitting or adaptation of contact lenses to, the human eye.

(d) The practice of dentistry or dental hygiene or the work of a dental auxiliary as defined in Chapter 4 (commencing with Section 1600).

This section shall not be construed in a manner which shall preclude the performance of routine visual screening as defined in Section 3501.

SEC 2. Section 3503 of the Business and Professions Code is amended to read:

3503. No person other than one who has been licensed to practice as a physician's assistant or authorized to practice on interim approval under Section 3517 shall practice as a physician's assistant or in a similar capacity to a physican and surgeon or hold himself or herself out as a "physician's assistant," or shall use any other term indicating or implying that he or she is a physician's assistant.

SEC. 2.5. Section 3505 of the Business and Professions Code is amended to read:

3505. The members of the committee shall include one member of the board, a physician representative of a California medical school, an educator participating in an approved program for the training of physicians' assistants, one physican who is an approved supervising physician of a physician's assistant and who is not a member of any division of the board, three physicians' assistants, and two public members.

Each member of the committee shall hold office for a term of four years expiring on January 1st, and shall serve until the appointment and qualification of a successor or until one year shall have elapsed since the expiration of the term for which the member was appointed, whichever first occurs. No member shall serve for more than two consecutive terms. Vacancies shall be filled by appointment for the unexpired terms.

The Governor shall appoint the licensed members qualified as provided in this section. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a public member, and their initial appointment shall be made to fill, respectively, the first and second public member vacancies which occur on or after January 1, 1983.

SEC. 3. Section 3509 of the Business and Professions Code is amended to read:

3509. It shall be the duty of the committee to:

(a) Establish standards and issue licenses of approval for programs for the education and training of physician's assistants.

(b) Make recommendations to the board concerning the scope of practice for physician's assistants.

(c) Make recommendations to the board concerning the formulation of guidelines for the consideration of applications by

licensed physicians to supervise physician's assistants and approval of such applications.

(d) Require the examination of applicants for licensure as a physician's assistant who meet the requirements of this chapter.

SEC. 3.5. Section 3509.5 of the Business and Professions Code is amended to read:

3509.5. The committee shall elect annually a chairperson and a vice chairperson from among its members.

SEC. 4. Section 3510 of the Business and Professions Code is amended to read:

3510. The committee may adopt, amend, and repeal regulations as may be necessary to enable it to carry into effect the provisions of this chapter; provided, however, that the board shall adopt, amend, and repeal such regulations as may be necessary to enable it to implement the provisions of this chapter under its jurisdiction. All regulations shall be in accordance with, and not inconsistent with, the provisions of this chapter. Such regulations shall be adopted, amended, or repealed 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. 4.5. Section 3511 of the Business and Professions Code is amended to read:

3511. Five members shall constitute a quorum for transacting any business. The affirmative vote of a majority of those present at a meeting of the committee shall be required to carry any motion.

SEC. 5. Section 3512 of the Business and Professions Code is amended to read:

3512. Except as provided in Sections 159.5 and 2020, the committee shall employ within the limits of the Physician's Assistant Fund all personnel necessary to carry out the provisions of this chapter including an executive officer who shall be exempt from civil service. The board and committee shall make all necessary expenditures to carry out the provisions of this chapter from the funds established by Section 3520. The committee may accept contributions to effect the purposes of this chapter.

SEC. 6. Section 3514 of the Business and Professions Code is amended to read:

3514. (a) The board shall formulate by regulation guidelines for the approval of licensed physicians to supervise a physician's assistant. Each physician desiring to supervise a physician's assistant shall file a separate application, except as provided in Section 3516.5.

(b) The committee shall formulate by regulation guidelines for the consideration of applications for licensure as a physician's assistant.

(c) The committee shall formulate by regulation guidelines for the approval of physician's assistant training programs.

SEC. 7. Section 3515 of the Business and Professions Code is amended to read:

3515. The board shall approve an application by a licensed

physician to supervise a physician's assistant, where the applicant has met all of the requirements of this chapter and the board's regulations.

SEC. 8. Section 3516 of the Business and Professions Code is amended to read:

3516. Notwithstanding any other provision of law, any physician's assistant licensed by the committee shall be eligible for employment or supervision by any physician approved by the board to supervise physician's assistants, except that:

(a) No physician shall supervise more than two physician's assistants at any one time, except as provided in Section 3516.5, and

(b) The board may restrict physicians to supervising specific types of physician's assistants including, but not limited to, restricting physicians from supervising physician's assistants outside of the physician's field of specialty.

SEC. 9. Section 3516.5 of the Business and Professions Code is amended to read:

3516.5. (a) Notwithstanding any other provision of law and in accordance with regulations established by the board, the director of emergency care services in a hospital with an approved program for the training of emergency care physician assistants, may apply to the board for authorization under which such director may grant approval for emergency care physicians on the staff of such hospital to supervise emergency care physician assistants.

(b) Such application shall encompass all supervising physicians employed in such service.

(c) Nothing in this section shall be construed to authorize any one emergency care physician while on duty to supervise more than two physician assistants at any one time.

(d) A violation of this section by the director of emergency care services in a hospital with an approved program for the training of emergency care physician's assistants constitutes unprofessional conduct within the meaning of Chapter 5 (commencing with Section 2000) of Division 2.

(e) Any violation of this section shall be grounds for suspension of the approval of the director or disciplinary action against the director or suspension of the approved program under Section 3527.

SEC. 10. Section 3517 of the Business and Professions Code is amended to read:

3517. The committee shall require a written examination of physician's assistants in such manner and under such rules and regulations as it shall prescribe, but such examination shall be conducted in such manner to insure that the identity of each applicant taking the examination will be unknown to all of the examiners until all examination papers have been graded. Except as otherwise provided in this chapter, or by regulation, no physician's assistant applicant shall receive approval under this chapter without first successfully passing an examination given under the direction of the committee.

Examinations for licensure as a physician's assistant may be required by the committee under a uniform examination system, and for that purpose the committee may make such arrangements with organizations furnishing examination material as may, in its discretion, be desirable. The committee shall, however, establish a passing score for each examination. The licensure examination for physician's assistants shall be held by the committee at least once a year with such additional examinations as the committee deems necessary. The time and place of examination shall be fixed by the committee.

The committee may grant interim approval to an applicant for licensure as a physician's assistant.

Every applicant who has complied with Section 3519, subdivision (a), who has filed an application with the committee may, between the date of receipt of notice that the application is on file and the date of receipt of his or her license, practice as a physician's assistant on interim approval under the supervision of an approved physician. Applicants shall notify the committee in writing of any and all supervising physicians under whom they will be performing services prior to practicing under interim approval. If the applicant shall fail to take the next succeeding licensure examination or fails to pass the examination or fails to receive a license, all privileges under this section shall automatically cease upon written notification sent to the applicant by the committee.

In the event the licensure examination required by the committee is under a uniform examination system, the applicant shall provide evidence satisfactory to the committee (a) that an application has been filed and accepted for the examination and (b) that the organization administering the examination has been requested to transmit the applicant's scores to the committee in order for the applicant to maintain interim approval. The applicant shall be deemed to have failed the examination unless the applicant provides evidence to the committee within 30 days after scores have been released that he or she has passed the examination.

SEC. 11. Section 3518 of the Business and Professions Code is amended to read:

3518. The committee shall keep current, two separate registers, one for approved supervising physicians and one for licensed physician's assistants, by specialty if applicable. These registers shall show the name of each licensee, his or her last known address of record, and the date of his or her licensure or approval, including those persons practicing under interim approval under Section 3517. Any interested person is entitled to obtain a copy of such register in accordance with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1298) of Title 1.8 of Part 4 of the Civil Code) upon application to the committee together with such sum as may be fixed by the committee, which amount shall not exceed the cost of this list so furnished.

SEC. 12. Section 3519 of the Business and Professions Code is

amended to read:

3519. The committee shall issue under the name of the Board of Medical Quality Assurance a license to all physician's assistant applicants who meet all of the following requirements:

(a) Provide evidence of one of the following:

(1) Successful completion of an approved program.

(2) Successful completion in a medical school approved by the Division of Licensing of a resident course of professional instruction which meets the requirements of Sections 2088 and 2089.

(b) Pass any examination required under Section 3517.

(c) Not be subject to denial of licensure under Division 1.5 (commencing with Section 475) or Section 3527.

(d) Pay all fees required under Section 3521.1.

SEC. 13. Section 3520 of the Business and Professions Code is amended to read:

3520. Within 10 days after the beginning of each calendar month the board shall report to the Controller the amount and source of all collections made under this chapter and at the same time pay all such sums into the State Treasury, where they shall be credited to the Physician's Assistant Fund, which fund is hereby created. All money in such fund is continuously appropriated to carry out the purpose of this chapter.

SEC. 14. Section 3521 of the Business and Professions Code is amended to read:

3521. The fees to be paid for approval to supervise a physician's assistant are to be set by the committee as follows:

(a) An application fee not to exceed fifty dollars ($50) shall be charged to each physician applicant.

(b) An approval fee not to exceed one hundred dollars ($100) shall be charged to each physician upon approval of an application to supervise a physician's assistant. If the approval will expire less than one year after its issuance, the fee shall be 50 percent of the initial approval fee currently in effect.

(c) A biennial renewal fee not to exceed one hundred fifty dollars ($150) shall be paid for the renewal of such approval.

(d) The delinquency fee is twenty-five dollars ($25).

(e) The duplicate approval fee is ten dollars ($10).

SEC. 15. Section 3521.1 is added to the Business and Professions Code, to read:

3521.1. The fees to be paid by physician's assistants are to be set by the committee as follows:

(a) An application fee not to exceed twenty-five dollars ($25) shall be charged to all physician's assistant applicants.

(b) An initial license fee not to exceed one hundred dollars ($100) shall be charged to each physician's assistant to whom a license is issued. If the license will expire less than one year after its issuance, the fee shall be 50 percent of the initial license fee currently in effect.

(c) A biennial renewal fee not to exceed one hundred fifty dollars ($150).

(d) The delinquency fee is twenty-five dollars ($25).

(e) The duplicate license fee is ten dollars ($10).

SEC. 16. Section 3521.2 is added to the Business and Professions Code, to read:

3521.2. The fees to be paid by physician's assistant training programs are to be set by the committee as follows:

(a) An application fee not to exceed five hundred dollars ($500) shall be charged to each applicant seeking program approval by the committee.

(b) An approval fee not to exceed one hundred dollars ($100) shall be charged to each program upon its approval by the committee.

SEC. 17. Section 3522 of the Business and Professions Code is amended to read:

3522. All approvals to supervise a physician's assistant shall expire at 12 midnight on the last day of May of each even-numbered year if not renewed.

To renew an unexpired approval, the approved supervising physician, on or before the date of expiration, shall apply for renewal on a form prescribed by the board and pay the prescribed renewal fee.

SEC. 18. Section 3523 of the Business and Professions Code is repealed.

SEC. 19. Section 3523 of the Business and Professions Code, is added to read:

3523. All physician's assistant licenses shall expire at 12 midnight of the last day of the birth month of the licensee during the second year of a two-year term if not renewed.

The committee shall establish by regulation procedures for the administration of a birthdate renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates and a pro rata formula for the payment of renewal fees by physician's assistants affected by the implementation of the program.

To renew an unexpired license, the licensee shall, on or before the date of expiration of the license, apply for renewal on a form provided by the committee, accompanied by the prescribed renewal fee.

SEC. 20. Section 3524 of the Business and Professions Code is amended to read:

3524. A license or approval which has expired may be renewed at any time within five years after its expiration by filing an application for renewal on a form prescribed by the committee or board, as the case may be, and payment of the renewal fee in effect on the preceding regular renewal date. If the license or approval is not renewed within 30 days after its expiration, the licensed physician's assistant and approved supervising physician, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Renewal under this section shall be effective

on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever occurs last. If so renewed, the license shall continue in effect through the expiration date provided in Section 3522 or 3523 which next occurs after the effective date of the renewal, when it shall expire, if it is not again renewed.

SEC. 21. Section 3526 of the Business and Professions Code is repealed.

SEC. 22. Section 3526 of the Business and Professions Code, is added to read

3526. A person who fails to renew his or her license or approval within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored thereafter, but such person may apply for and obtain a new license or approval if he or she:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the committee that, with due regard for the public interest, he or she is qualified to practice as a physician's assistant.

(c) Pays all of the fees that would be required as if application for licensure was being made for the first time.

SEC. 23. Section 13401.5 of the Corporations Code is amended to read:

13401.5. Notwithstanding subdivision (c) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by such licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein and so long as the number of such licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

(a) Medical corporation.
(1) Licensed podiatrists.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Optometrists.
(5) Licensed physicians' assistants.
(6) Licensed marriage, family and child counselors.
(7) Licensed clinical social workers.
(b) Podiatry corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.

(4) Optometrists.
(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Registered nurses.
(4) Optometrists.
(5) Licensed marriage, family and child counselors.
(6) Licensed clinical social workers.
(d) Speech pathology corporation.
(1) Licensed audiologist.
(e) Audiology corporation.
(1) Licensed speech pathologist.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Licensed psychologists.
(4) Optometrists.
(5) Licensed marriage, family and child counselors.
(6) Licensed clinical social workers.
(7) Licensed physician's assistants.
(g) Marriage, family and child counseling corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage, family and child counselors.
(4) Registered nurses.
(i) Physicians' assistants corporation.
(1) Licensed physicians and surgeons.
(2) Registered nurses.

CHAPTER 1027

An act to add Section 74352.3 to the Government Code, and to amend Section 1205 of the Penal Code, relating to courts.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 74352.3 is added to the Government Code, to read:

74352.3. (a) In order to determine the feasibility and potential benefits of such a system, the Legislature hereby authorizes the

establishment of the following program, to be implemented on a demonstration basis in the County of San Diego upon the adoption of a resolution by the board of supervisors authorizing it, for the period from January 1, 1984, to January 1, 1986. For the San Diego, El Cajon, North County, and South Bay Judicial Districts in the County of San Diego, the Board of Supervisors may establish administrative assessments, not to exceed ten dollars ($10), for clerical and administrative costs incurred for the following activities:

(1) An assessment for the cost of recording and maintaining a record of the defendant's prior convictions for violations of the Vehicle Code. Such an assessment shall be payable at the time of payment of a fine or when bail is forfeited for any subsequent violations of the Vehicle Code other than parking, pedestrian or bicycle violations.

(2) An assessment for all defendants whose drivers license or automobile registration is attached or restricted pursuant to Section 40509 of the Vehicle Code, to cover the cost of notifying the Department of Motor Vehicles of the attachment or restriction.

(b) The Board of Supervisors of the County of San Diego, if it has implemented the program authorized by this section, shall submit a written report to the Legislature, on an annual basis, detailing the following information:

(1) The number of defendants upon whom the county has imposed assessments pursuant to paragraphs (1) and (2) of subdivision (a).

(2) The number of defendants who have been arraigned on complaints charging Vehicle Code violations in the municipal courts participating in the demonstration program.

(3) The actual costs associated with processing each assessment category.

(4) The amount of revenue derived from each assessment category.

SEC. 2. Section 1205 of the Penal Code is amended to read:

1205. (a) A judgment that the defendant pay a fine, with or without other punishment, may also direct that he be imprisoned until the fine is satisfied and may further direct that the imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which he may theretofore have been sentenced. Each of these judgments shall specify the extent of the imprisonment for nonpayment of the fine, which shall not be more than one day for each thirty dollars ($30) of the fine, nor exceed in any case the term for which the defendant might be sentenced to imprisonment for the offense of which he has been convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he is so held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a judgment that the defendant pay a fine may also direct that he pay the fine within a limited time or in installments

on specified dates and that in default of payment as therein stipulated he be imprisoned in the discretion of the court either until the defaulted installment is satisfied or until the fine is satisfied in full; but unless the direction is given in the judgment, the fine shall be payable forthwith.

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

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

(d) In order to determine the feasibility and potential benefits of such a system, the Legislature hereby authorizes the establishment of the following program, to be implemented on a demonstration basis in the County of San Diego, upon the adoption of a resolution by the board of supervisors authorizing it, for the period from January 1, 1984, to January 1, 1986. The Board of Supervisors of the County of San Diego may establish a fee for the processing of accounts receivable that are not to be paid in installments. The defendant shall pay to the clerk of the court or the collecting agency the fee established for the processing of such accounts. The fee shall equal the administrative and clerical costs, as determined by the board of supervisors, except that the fee shall not exceed thirty dollars ($30).

(e) The Board of Supervisors of the County of San Diego, if it has implemented the program authorized by subdivision (d), shall submit a written report to the Legislature, on an annual basis, detailing the following information:

(1) The number of defendants upon whom the county has

imposed fees pursuant to subdivision (d).

(2) The number of defendants upon whom the county has imposed fines pursuant to this section.

(3) The actual costs associated with processing accounts receivable that are not to be paid in installments.

(4) The amount of revenue derived from assessment of fees pursuant to subdivision (d).

SEC. 3. The fees and assessments authorized by this act shall be applicable to offenses committed after the adoption of the resolution by the Board of Supervisors of the County of San Diego authorizing that fee or assessment.

CHAPTER 1028

An act to add Section 1764 to the Welfare and Institutions Code, relating to youth.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 1764 is added to the Welfare and Institutions Code, to read:

1764. Notwithstanding any other provision of law, any of the following information in the possession of the Youth Authority regarding persons 16 years of age or older committed to the Youth Authority by a court of criminal jurisdiction shall be disclosed to any member of the public, upon request, by the director or his or her designee:

(a) The name and age of the ward.

(b) The court of commitment and the offense that was the basis of commitment.

(c) The date of commitment.

(d) Any institution where the ward is or was confined.

(e) The actions taken by the Youthful Offender Parole Board regarding the ward which relate to parole dates.

(f) The date the ward was placed on parole.

(g) The date the ward was discharged from the jurisdiction of the Youth Authority and the basis for the discharge.

(h) In any case where the ward has escaped from any institution under the jurisdiction of the Youth Authority, a physical description of the ward and the circumstances of the escape.

The provisions of this section shall not be construed to authorize the release of any information which could place any individual in personal peril; which could threaten Youth Authority security; or which is exempt from disclosure pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of

Division 7 of Title 1 of the Government Code).

CHAPTER 1029

An act to amend Section 6546 of the Business and Professions Code, relating to barbering.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 6546 of the Business and Professions Code is amended to read:

6546. Any person is qualified to receive a certificate of registration as a registered apprentice if he complies with each of the following:

(a) The applicant has completed the proper grade in school as provided in Section 6546.5, or has an equivalent education, as determined by an examination conducted by an examining agency prescribed by the board.

(b) The applicant is at least 16 years of age.

(c) The applicant is not subject to denial pursuant to Section 480.

(d) The applicant is engaged in learning, or acquiring a knowledge of the occupation of barbering, in a licensed barbershop approved by the board and under the supervision of a registered barber approved by the board, provided that:

(1) The applicant is trained under the supervision of a registered barber instructor, for the first three months of apprenticeship training, or

(2) The applicant completes a minimum of 39 hours of preapprentice related training conducted by an approved apprenticeship training program approved under Section 6546.1 or has had a minimum of six months past training or experience in substantially the same subject as determined by a local joint apprenticeship training committee with approval of, and under guidelines set by, the board. The preapprentice related training shall not be conducted in a facility open to the general public for professional barber services nor shall the applicant enrolled in the training serve the general public. The preapprentice related training shall be credited toward the apprentice training required by this section.

(e) The applicant has completed and filed an acceptable application with the board and has paid the certificate and registration fee required by this chapter.

CHAPTER 1030

An act to amend Section 437.11 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 437.11 of the Health and Safety Code is amended to read:

437.11. (a) The office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of exemption for those projects which were not previously subject to review under Section 437.7 prior to the effective date of this section where the applicant has shown and the office director has found all of the following:

(1) The applicant has, prior to the effective date of this section, committed or incurred a financial obligation, including any obligation payable by force account, which is certified by a licensed architect or engineer to be 10 percent of the cost of the total project, or seventy-five thousand dollars ($75,000), whichever is less.

(2) The project cannot be terminated without substantial economic loss to the applicant.

(3) Except with respect to projects set forth in subdivision (d) of Section 437.10, the project was commenced prior to the effective date of this section and is being diligently pursued to completion.

(4) The applicant has filed a notice of such project with the office on forms supplied by the office within 60 days of the effective date of this section.

For the purposes of this subdivision, "project" shall mean any project set forth in Section 437.10, and the term "financial obligation" shall include cost factors set forth in the definition of "capital expenditure" in Section 437.10.

Within 120 days of the effective date of this section, the office shall determine in public hearing which applications are entitled to an exemption under this subdivision.

(b) In addition, the office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for those projects where the applicant has shown and the office director has found one of the following:

(1) The project is necessary solely to replace health care services that are no longer available at the facility because of a disaster or other emergency.

(2) The project is solely for the purpose of complying with requirements of law or regulations.

(3) The project was the subject of an application submitted to an

area health planning agency prior to the effective date of this section. Such applications shall be processed and decided in the manner prescribed by this part as it existed immediately prior to the operative date of this section, except that any petition for appeal of a decision or lack o ' decision of such an area health planning agency rendered after the effective date of this section shall be made directly to the Advisory Health Council.

(4) The project is to add not more than 10 percent of licensed bed capacity or 10 beds, whichever is less, to an existing general acute care hospital, an existing acute psychiatric hospital, an existing special hospital, an existing general acute care/rehabilitating hospital, or an existing chemical dependency recovery hospital, where the applicant has shown and the office director has found that:

(A) The applicant hospital has not been granted a certificate of exemption pursuant to this provision or pursuant to Section 437.112, as Section 437.112 existed on January 1, 1982, within the last preceding 24 months.

(B) The applicant hospital has had an occupancy rate for the classification of beds to be added, and for the facility as a whole, for the preceding 12-month period, of not less than 85 percent.

(C) The project does not exceed the capital expenditure threshold identified in subdivision (e) of Section 437.10 as adjusted to reflect changes in the cost of living.

(D) The facility is accessible to persons for whom the cost of care is reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code. In the case of an acute psychiatric hospital, the showing required by this subparagraph shall be limited to those categories of patients for whom acute psychiatric hospitals are eligible to receive reimbursement under Chapter 7 (commencing with Section 1400) of Part 3 of Division 9 of the Welfare and Institutions Code.

(5) The project is to add not more than five beds to an existing skilled nursing facility which is operated as a distinct part of a primary health service hospital, as defined in Section 1339.9 that participates in Medi-Cal programs, provided that all of the following conditions exist:

(A) At the time of the application, the Statewide Health Facility and Services Plan indicates a need for the proposed number of beds taking into account the number of approved beds in the health facilities planning area in which the project is located including beds approved pursuant to this subdivision.

(B) The applicant skilled nursing facility has had at least a 95 percent occupancy rate for existing beds for the 12 months preceding the submission of an application.

(C) The applicant facility has not been issued within the 12 months preceding application a citation for a class A violation or more than one class B violation, as defined at Section 1424, which is one of the following:

(i) Uncontested.

(ii) Contested, but not adjudicated.

(iii) Contested, but sustained upon adjudication.

In determining the current number of approved beds in the health facilities planning area in which the project is located, the office shall count the number of beds for which applications for a certificate of need have been deemed complete pursuant to Section 438.2, before the effective date of the amendments to this section enacted by the Statutes of 1983.

Such a project shall not require a capital expenditure which exceeds ten thousand dollars ($10,000) and only one such project may be approved for a facility in a 12-month period. However, no facility shall receive approval pursuant to this section for more than two projects. The office shall annually adjust this capital expenditure threshold to reflect changes in the cost of living as determined by the Department of Finance, using 1981 as the base year.

Any certificate issued for such projects shall expire if the applicant does not complete the project within 12 months after issuance unless the office, for good cause shown, extends the certificate.

(c) A certificate of exemption issued pursuant to this section or Section 1268 shall for all purposes have the same effect as a certificate of need issued pursuant to this part.

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 ensure a continuum of health services for the health and well-being of residents and tourists in California, it is necessary that this act take effect immediately.

CHAPTER 1031

An act to add Section 14005.16 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 14005.16 is added to the Welfare and Institutions Code, to read:

14005.16. (a) In determining the eligibility of a married individual, pursuant to Section 14005.4 or 14005.7, who resides in a skilled nursing facility or an intermediate care facility, and who is in a Medi-Cal family budget unit separate from that of his or her spouse, the community property interest of the noninstitutionalized spouse in the unearned income of the married individual shall not be considered income available to that individual.

(b) In determining the eligibility of a married individual pursuant to Section 14005.4 or 14005.7 who resides in a skilled nursing facility or an intermediate care facility, and who is in a Medi-Cal family budget unit that does not include his or her spouse, the community property interest of the institutionalized individual in the unearned income of the noninstitutionalized spouse shall be considered income available to that individual.

SEC. 2. (a) Any provision of this act that is in conflict with any federal statute or regulation shall be inapplicable to the extent of such conflict, but the provision and the remainder of the provisions shall be unaffected to the extent no conflict exists.

(b) The State Department of Health Services shall, within 30 days of the operative date of this act, seek all federal waivers necessary to implement the provisions. The provisions for which appropriate federal waivers cannot be obtained shall not be implemented, but provisions for which waivers are either obtained or found to be unnecessary shall be unaffected by the inability to obtain federal waivers for the other provisions.

(c) The State Director of Health Services shall, within 30 days of obtaining all necessary federal waivers, adopt regulations implementing the provisions as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the State Department of Health Services in order to implement the provisions shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

(d) 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 that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

CHAPTER 1032

An act to repeal and add Article 3 (commencing with Section 76030) to Chapter 1 of Part 47 of the Education Code, to add Section 11591.5 to the Health and Safety Code, and to add Section 291.5 to the Penal Code, relating to community colleges.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Article 3 (commencing with Section 76030) of Chapter 1 of Part 47 of the Education Code is repealed.

SEC. 2. Article 3 (commencing with Section 76030) is added to Chapter 1 of Part 47 of the Education Code, to read:

Article 3. Removal, Suspension, or Expulsion

76030. Consistent with requirements of due process of law, with the provisions of this article, and with the rules of student conduct adopted by the governing board under Section 66300, the governing board, the president of a community college or the president's designee, or an instructor shall suspend a student for good cause. In addition, the governing board is authorized to expel a student for good cause when other means of correction fail to bring about proper conduct, or when the presence of the student causes a continuing danger to the physical safety of the student or others. The suspension or expulsion of a student shall be accompanied by a hearing conducted pursuant to the requirements of Section 66017.

76031. The adopted rules of student conduct may authorize the president of a community college or the president's designee to suspend a student for good cause as follows:

(a) From one or more classes for a period of up to 10 days of instruction.

(b) From one or more classes for the remainder of the school term.

(c) From all classes and activities of the community college for one or more terms.

The adopted rules of student conduct shall prohibit a student from being enrolled in any community college in the district for the period of suspension.

The president of the community college shall report all suspension of students to the governing board or to the district superintendent.

Whenever a minor is suspended from a community college, the parent or guardian shall be notified in writing by the president or the president's designee.

Nothing in this section shall be construed to prohibit the president of a community college or the president's designee from imposing a lesser disciplinary sanction than suspension. A lesser sanction may include, but need not be limited to, verbal or written reprimand, probation, or ineligibility to participate in extracurricular activities.

76032. The adopted rules of student conduct may authorize an instructor to remove a student from his or her class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the chief administrative officer for appropriate

action.

If the student removed by an instructor is a minor, the college president or the president's designee shall ask the parent or guardian of the student to attend a parent conference regarding the removal as soon as possible. If the instructor or the parent or guardian so requests, a college administrator shall attend the conference. During the period of removal, a student shall not be returned to the class from which he or she was removed without the concurrence of the instructor of the class.

76033. As used in this article, "good cause" includes, but is not limited to, the following offenses:

(a) Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel.

(b) Assault, battery, or any threat of force or violence upon a student or college personnel.

(c) Willful misconduct which results in injury or death to a student or college personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the district.

(d) The use, sale, or possession on campus of, or presence on campus under the influence of, narcotics, other hallucinogenic drugs or substances, or any poison classified as such by Schedule D in Section 4160 of the Business and Professions Code.

(e) Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the governing board.

(f) Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.

76034. No student shall be removed, suspended, or expelled unless the conduct for which the student is disciplined is related to college activity or college attendance.

76035. The president or the president's designee at a community college shall, upon the suspension or expulsion of any student, notify the appropriate law enforcement authorities of the county or city in which the school is situated of any acts of the student which may be in violation of Section 245 of the Penal Code.

76036 Any violation or violations of law, ordinance, regulation, or rule regulating, or pertaining to, the parking of vehicles, shall not be cause for the removal, suspension, or expulsion of a student from a community college.

76037. Nothing in this article shall be construed to limit the authority of a governing board to adopt additional rules and regulations which are not inconsistent with the requirements of this article. These additional rules may, among other things, prescribe specific rules and regulations governing student behavior, along with applicable penalties for violations of the adopted rules and regulations, and may prescribe appropriate due process procedures, including procedure by which students shall be informed of these rules and regulations.

SEC. 3. Section 11591.5 is added to the Health and Safety Code, to read:

11591.5. Every sheriff or chief of police, upon the arrest for any of the controlled substance offenses enumerated in Section 11590, or Section 11364, insofar as that section relates to paragraph (9) of subdivision (d) of Section 11054, of any teacher or instructor employed in any community college district shall immediately notify by telephone the superintendent of the community college district employing the teacher or instructor and shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community Colleges. Upon receipt of such notice, the district superintendent shall immediately notify the governing board of the community college district employing the person.

SEC. 4. Section 291.5 is added to the Penal Code, to read:

291.5. Every sheriff or chief of police, upon the arrest for any of the offenses enumerated in Section 290 or in subdivision (1) of Section 261 of any teacher or instructor employed in any community college district shall immediately notify by telephone the superintendent of the community college district employing the teacher or instructor and shall immediately give written notice of the arrest to the Office of the Chancellor of the California Community Colleges. Upon receipt of such notice, the district superintendent shall immediately notify the governing board of the community college district employing the person.

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 1033

An act to add Article 16 (commencing with Section 51880) to Chapter 5 of Part 28 of the Education Code, relating to aquatic education.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Article 16 (commencing with Section 51880) is added to Chapter 5 of Part 28 of the Education Code, to read:

Article 16. Aquatic Safety

51880. The Legislature finds that, given the great diversity of water recreation activities available statewide and the significant loss of life associated with those activities, there is a great need for an aquatic safety program in the state.

It is the intent of the Legislature in enacting this article that fundamental water safety training be provided for all the children of the state so that California's youth will be able to enjoy water recreation while avoiding its hazards.

51881. The Department of Boating and Waterways, in cooperation with the Department of Education and other appropriate agencies, industry, and nonprofit organizations involved with water safety, shall develop an aquatic safety program which shall be made available for use at an appropriate grade level in public elementary schools, as determined by the Director of Boating and Waterways, at no expense to the schools. The aquatic education program shall include, but not be limited to, an audiovisual instructional aid and parental involvement materials. The Department of Boating and Waterways will act as liaison between the schools and school districts and the industry and nonprofit organizations involved with water safety.

51882. Once developed, the Department of Boating and Waterways shall notify the schools and school districts of the availability of the aquatic safety program.

CHAPTER 1034

An act to amend Section 24012, Section 24013 as amended by Section 2.4 of Chapter 323 of the Statutes of 1983, and Section 24013 as amended by Section 2.5 of Chapter 323 of the Statutes of 1983, to repeal Sections 24017 and 24212 of, and to add Section 23320.3 to, the Business and Professions Code, relating to alcoholic beverages, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983. Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 23320.3 is added to the Business and Professions Code, to read:

23320.3. (a) The department shall establish a surcharge applicable to the annual fees provided for in Section 23320.

(b) The surcharge set by the department shall be proportionate to the fee charged to each licensee pursuant to Section 23320 and shall provide an amount which is sufficient to pay the actual costs charged to the Department by the Office of Administrative Hearings

for administrative hearings. The surcharge shall not exceed 6 percent applied to the annual fees provided for in Section 23320, but shall otherwise be adjusted periodically to ensure that sufficient amounts are collected to pay these costs.

(c) All money collected from the fees provided for in this section shall be deposited directly into the General Fund in the State Treasury, rather than in the Alcoholic Beverage Control Fund as provided in Section 25671.

SEC. 2. Section 24012 of the Business and Professions Code is amended to read:

24012. Upon receipt by the department of a petition for a license in proper form, the petition shall be set for hearing.

SEC. 3. Section 24013 of the Business and Professions Code, as amended by Section 2.4 of Chapter 323 of the Statutes of 1982, 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 the 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 the 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 that date is repealed.

SEC. 4. Section 24013 of the Business and Professions Code, as amended by Section 2.5 of Chapter 323 of the Statutes of 1983, 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 the 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. 5. Section 24017 of the Business and Professions Code is repealed.

SEC. 6. Section 24212 of the Business and Professions Code is repealed.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The immediate effect of this bill is necessary to implement the Budget Act of 1983.

CHAPTER 1035

An act to amend Section 1110 of, and to add Section 1382 to, the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 1110 of the Unemployment Insurance Code is amended to read:

1110. (a) Employer contributions required under Sections 976, 976.5, and 976.6, the amount of benefits received by any individual pursuant to this part that is deducted from an award or settlement made by the employer under the provisions of Section 1382, and, except as provided by subdivision (b) of this section, worker contributions required under Section 984, are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of such month.

(b) Workers' contributions required under Section 984 are due and payable at the same time as amounts required to be withheld under Section 13020 are paid to the department pursuant to Section 13021, regardless of the amount of accumulated unpaid liability for workers' contributions.

SEC. 2. Section 1382 is added to the Unemployment Insurance Code, to read:

1382. No person shall be liable for the amount of benefits received for any period for which the person also received an award or settlement of backpay resulting from an action or grievance for wrongful discharge, if the amount of the backpay award or settlement was reduced by the amount of benefits received pursuant to this part. When the amount of the backpay award or settlement was reduced by the amount of benefits received, the employer shall pay to the Unemployment Fund an amount equal to the amount subtracted from the backpay award or settlement for benefits received by the person in order to reimburse the fund. When an individual has been awarded or receives backpay, the amount of the backpay shall constitute wages paid in the period for which it is awarded

A mediator or arbitrator who is a party to the backpay award or settlement shall, within 30 days of the settlement, report to the department the name and address of the employer, the amount of benefits by which the award or settlement was reduced, and the name and social security number of the person who received the award or settlement.

CHAPTER 1036

An act to add Sections 4700.1 and 4700.3 to the Civil Code, relating to child support.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 4700.1 is added to the Civil Code, to read:

4700.1. (a) It is the intention of the Legislature in enacting this section to provide an additional, simplified method for the modification of child support awards.

(b) A notice of motion to modify an order awarding child support may be filed under this section at any time subsequent to one year after the entry of a previous order for the award of child support, except that the one-year limitation shall not be applicable if the request for modification is based on a significant decrease in the income of the moving party.

A motion to modify child support shall include a proposed order

for modification of child support, and a declaration that the facts on which the motion is based are true and correct, under penalty of perjury. The moving party shall cause the notice of motion and the proposed order to be served on the other party to the child support award. The responding party shall have 30 days from the date of service within which to file an objection and request for a hearing. If the responding party so files, he or she shall be responsible for requesting a hearing date and giving notice thereof to the moving party. The original proof of service of the notice of the objection and request shall be filed at the same time as the filing of the objection and the request for hearing.

(c) No attorney at law or person other than the moving or responding party shall take any part in the filing or prosecution or defense of a proceeding pursuant to this section, unless the attorney is appearing as a party to the proceeding. Nothing in this section shall be construed to prohibit an attorney from rendering advice to a party to the proceeding, either before or after the commencement of the proceeding. However, if a party to such a proceeding elects to be represented by counsel, the court shall proceed on the motion as specified in subdivision (i).

(d) Only one modification of child support pursuant to this section shall be granted within any 12-month period, except in cases where the request for a modification is based on a significant decrease in the income of the moving party.

The court may grant a modification of child support, not to exceed an amount equal to 10 percent of the current award for each year subsequent to the date on which the current award was granted, without requiring a showing of changed circumstances by the moving party, to the extent justified by the economic evidence presented by way of the income statements (and expense statements, if the court deems them necessary and relevant) of the parties. In the event of a default by the responding party, the court shall award a modification, without requiring the submission of economic evidence by the moving party.

In cases in which the request for modification is based on a significant decrease in the income of the moving party, the moving party shall present evidence of his or her decline in economic circumstances. The amount of the modification shall be based on the economic evidence presented by way of income statements (and expense statements, if the court deems them necessary and relevant) of the parties. In the event of a default by the responding party in a case where the request for the modification is based on a significant decrease in the income of the moving party, the court shall award a modification based on the evidence. If the court considering the request for modification awards child support according to guidelines in use within its jurisdiction, the amount of modification shall be based on those guidelines. If no guidelines are in use, the amount of the modification shall be based on the factors employed in determining the existing award.

In addition to the income statement (and the expense statement, if required by the court), in a contested proceeding, both the moving party and the responding party shall make available to the court copies of their state income tax returns for the preceding year at the time of the hearing. No relief shall be granted pursuant to this procedure to a party who fails to submit such documents as may be required by the court or a declaration under penalty of perjury that no such documents exist, or that, in the case of a tax return, it cannot be produced but a copy has been requested from the Franchise Tax Board. A tax return so submitted may be reviewed by the other party and a party also may be examined by the other party as to contents of any such return.

(e) Notice pursuant to this section shall be by certified mail, postage prepaid, return receipt requested, to the last known address of the party to be served, or by personal service. Proof of service shall be filed with the court. In order to facilitate service of process, each party to an order for child support shall provide the other party with his or her current mailing address and any subsequent change of address.

(f) In any proceeding in which the court orders a payment for the support of a minor child, the court shall, at the time of providing written notice of the order, provide the parties with a document describing the procedures by which the order may subsequently be modified.

(g) The party filing a notice of motion to modify child support with the clerk pursuant to this section shall also file a duplicate copy of the notice with the district attorney within five working days of filing.

(h) Nothing in this section shall be construed to infringe upon the duty of the state to comply with federal rules and regulations pertaining to the establishment, enforcement, and collection of child support payments in cases in which the child is receiving public assistance.

(i) Upon notice by a party to a proceeding under this section that he or she elects to be represented by counsel in the proceeding, the court shall proceed on the motion as in a proceeding for modification of child support pursuant to Section 4700. A party's notice of intent to proceed with the benefit of counsel shall be accompanied by the party's declaration under penalty of perjury stating facts evidencing that intent.

(j) The Judicial Council shall adopt forms or notices for the use of the procedure provided by this section, which shall include a notice advising of the right of a party to proceed with or without benefit of counsel, and which shall incorporate, where appropriate, advice as to the availability of this additional, simplified method for the modification of child support.

(k) Where it appears in the response to a request for a modification pursuant to this section that issues other than support are contested with respect to the child for whom support is sought,

those issues shall be set for mediation pursuant to Section 4607. A separate hearing shall be scheduled with regard to any such issue. The pendency of such a mediation proceeding shall not delay a hearing on the request for a modification pursuant to this section.

SEC. 2. Section 4700.3 is added to the Civil Code, to read:

4700.3. In making a modification based on a request to increase the amount of child support payments pursuant to Section 4700.1, the court shall take into consideration the age increase factor developed by the Judicial Council pursuant to Section 246.

SEC. 3. If any provision of this act or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 4. The provisions of this act shall be operative July 1, 1984.

SEC 5. The provisions of Section 2 of this act shall be operative only if SB 1213 is enacted and becomes effective on July 1, 1984.

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 1037

An act to amend Sections 25163 and 25342 of, and to add Section 25163.1 to, the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 21, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) Existing law encourages private citizens and small business to violate the state's hazardous waste control laws by making proper disposal of minimal amounts of hazardous waste unreasonably costly.

(b) In some instances, the misinterpretation of state law governing the transportation of hazardous waste has prohibited private citizens from properly disposing of hazardous waste byproducts without registering as a hazardous waste hauler or employing the use of one.

(c) The costs involved in utilizing a hazardous waste hauler for these purposes is an undue financial burden on small hazardous waste generators, thereby encouraging individuals to illegally dump

hazardous byproducts at solid waste disposal sites or to engage in illegal dumping by other means as these are the most cost-effective alternative methods.

(d) Since the illegal disposal of hazardous wastes constitutes a clear and present danger to the public and the environment, it is the intent of the Legislature to encourage and promote the proper disposal of minimal amounts of hazardous wastes, thereby promoting public responsibility for that activity.

SEC. 2. Section 25163 of the Health and Safety Code is amended to read:

25163. (a) Except as otherwise provided in subdivisions (b) and (c), it is unlawful for any person to carry on, or engage in the hauling of hazardous wastes, unless such person holds a valid registration issued by the department, and it shall be unlawful for any person to transfer custody of a hazardous waste to a hauler who does not hold a valid registration issued by the department. Any registration issued by the department to a hauler of hazardous waste is not transferable from the person to whom it was issued to any other person.

(b) Persons hauling only septic tank, cesspool, seepage pit, or chemical toilet waste that does not contain a hazardous waste originating from other than the body of a human or animal and who hold an unrevoked registration issued by the health officer or his duly authorized representative pursuant to Chapter 6 (commencing with Section 25000) shall be exempt from the requirements of subdivision (a).

(c) Persons hauling hazardous wastes to a permitted hazardous waste facility for transfer, treatment, recycling, or disposal, which wastes do not exceed a total volume of five gallons or do not exceed a total weight of 50 pounds, shall be exempt from the requirements of subdivisions (a) and (e) and from the requirements of Section 25160 concerning possession of the list while carrying or handling hazardous waste, upon meeting all of the following conditions:

(1) The contents of any single container hauled do not exceed one gallon or 10 pounds.

(2) The hazardous wastes are hauled in closed containers and packed in a manner that prevents the containers from tipping, spilling, or breaking during the hauling.

(3) Different hazardous waste materials are not mixed within a container during the hauling.

(4) The hazardous waste hauled is not listed as an extremely hazardous waste in Section 66685 of Title 22 of the California Administrative Code.

(5) The person hauling the hazardous waste is the generator of that hazardous waste.

(d) Any person registered as a hazardous waste hauler pursuant to subdivision (a) shall not be subject to the registration requirements of Chapter 6 (commencing with Section 25000) of the Health and Safety Code, but shall comply with the terms, conditions, orders, and directions as the health officer or his or her duly

authorized representative may deem necessary for the protection of human health and comfort, and shall otherwise comply with the requirements for statements as provided in Section 25007. Violations of those requirements of Section 25007 shall be punished as provided in Section 25010. Proof of registration pursuant to subdivision (a) shall be submitted by mail or in person to the local health officer in the city, county, or city and county in which the registered hazardous waste hauler will be conducting the activities described in Section 25001.

(e) It is unlawful for any person to transport hazardous waste in any truck, trailer, semitrailer, vacuum tank, or cargo tank not inspected by the California Highway Patrol or to transport hazardous waste in any container, other than a container packaged pursuant to Federal Department of Transportation regulations, which has not been inspected by the California Highway Patrol.

SEC. 3. Section 25163.1 is added to the Health and Safety Code, to read:

25163.1. The department shall not adopt any regulations requiring a person hauling hazardous wastes, who is not in the business of hauling hazardous wastes or who is not hauling these wastes as a part of, or incidental to, any business, to obtain the registration specified in subdivision (a) of Section 25163 if that person meets the conditions specified in subdivision (c) of Section 25163.

SEC. 4. Section 25342 of the Health and Safety Code is amended to read:

25342. On or before March 1, 1982, and March 1 of each year thereafter, every person who submitted for disposal offsite, or who disposed of onsite, more than 500 pounds of hazardous waste or extremely hazardous waste in the state during the preceding calendar year shall report to the board the following information:

(a) The total amount of hazardous or extremely hazardous waste, as defined by Sections 25117 and 25115, respectively, the federal regulation of which has been suspended under the Solid Waste Disposal Act (42 U.S.C. Sec. 6901 et seq.) by act of Congress, which that person has disposed of, or submitted for disposal, in the state, plus the total amount of hazardous or extremely hazardous waste and material, which that person has transferred to a surface impoundment in the state for purposes of reducing the water content of the waste and material by evaporation, plus the total amount of hazardous waste disposed of into an injection well or landfarm, as defined in subdivision (g) of Section 25345, exclusive of that waste specified in subdivision (d).

(b) The total amount of hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (c), and (d).

(c) The total amount of extremely hazardous waste disposed of, or submitted for disposal, in the state by that person, exclusive of that waste specified in subdivisions (a), (b), and (d).

(d) The total amount of hazardous or extremely hazardous waste that person has disposed of, or submitted for disposal, in the state from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and overburden from mining of uranium ore.

SEC. 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 protect the public health and safety by regulating the disposal of hazardous wastes by individuals generating relatively small amounts of wastes, it is necessary that this act take effect immediately.

CHAPTER 1038

An act to amend Sections 44252 and 44830 of the Education Code, relating to education.

[Approved by Governor September 22, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 44252 of the Education Code, as amended by Section 1 of Chapter 536 of the Statutes of 1983, is amended to read:

44252. (a) The commission shall establish standards and procedures for the initial issuance and renewal of credentials.

(b) Commencing on February 1, 1983, the Commission on Teacher Credentialing shall not issue initially any credential, permit, certificate, or renewal of an emergency credential to any person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language as provided in Section 44252.5. The commission shall exempt from the basic skills proficiency test requirement any of the following persons:

(1) A person credentialed solely for the purpose of teaching adults in an apprenticeship program.

(2) An applicant for an adult education designated subject credential for other than an academic subject.

(3) A person credentialed in another state who is an applicant for employment in a school district in this state who has passed a basic skills proficiency examination which has been developed and administered by the school district offering that person employment. School districts administering a basic skills proficiency examination under this paragraph shall comply with the requirements of subdivision (h) of Section 44830. Such an applicant shall be granted

a nonrenewable emergency credential, valid for not longer than one year, pending fulfillment of the basic skills proficiency requirement pursuant to Section 44261.5. The commission shall report to the Legislature no later than January 1, 1984, on the number of teachers receiving emergency credentials without fulfilling the basic skills proficiency requirement, the districts in which these teachers are employed, the number of teachers granted clear credentials after the expiration of an emergency credential granted under these conditions, and a comparison of success rate of these teachers on the basic skills test with the success rate of the general pool of credential applicants. This exemption shall remain in effect no later than June 30, 1984.

(4) An applicant for a child care center permit or a permit authorizing service in a development center for the handicapped, so long as the holder of the permit is not required to have a baccalaureate degree.

(5) The holder of a credential, permit, or certificate to teach, other than an emergency credential, who seeks an additional authorization to teach.

(6) An applicant for a credential to provide service in the health profession.

(c) By December 31, 1982, the Superintendent of Public Instruction shall adopt an appropriate state test to measure proficiency in these basic skills. In adopting the test, the superintendent shall seek assistance from the commission and an advisory board. A majority of the members of the advisory board shall be classroom teachers. The board shall also include representatives of local school boards, school administrators, parents, and postsecondary institutions.

The superintendent shall adopt any normed test that the superintendent determines will sufficiently test basic skills for purposes of this section.

The superintendent, in conjunction with the commission and approved teacher training institutions, shall take steps necessary to insure the effective implementation of this provision.

(d) Nothing in this section shall be construed as requiring the holders of, or applicants for, a vocational designated subject credential to pass the state basic skills proficiency test. The governing board of each school district, or each governing board of a consortium of school districts, or each governing board involved in a joint powers agreement, which employs a holder of a vocational designated subject credential shall establish its own basic skills proficiency criteria for the holders of these credentials and shall arrange for those individuals to be assessed. The basic skills proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs

of the test, including the costs of developing, administering, and grading the test.

(e) The commission shall compile data regarding the rate of passing the state basic skills proficiency test by persons who have been trained in various institutions of higher education. The data shall be available to members of the public, including to persons who intend to enroll in teacher education programs.

SEC. 2. Section 44830 of the Education Code, as amended by Section 3 of Chapter 536 of the Statutes of 1983, is amended to read:

44830. (a) A governing board of a school district shall employ for positions requiring certification qualifications, only persons who possess the qualifications therefor prescribed by law. It is contrary to the public policy of this state for any person or persons charged, by the governing boards, with the responsibility of recommending such persons for employment by the boards to refuse or to fail to do so for reasons of race, color, religious creed, sex, or national origin of the applicants for such employment.

(b) Commencing on February 1, 1983, no school district governing board shall initially hire on a permanent, temporary, or substitute basis a certificated person seeking employment in the capacity designated in his or her credential unless that person has demonstrated basic skills proficiency as provided in Section 44252.5 or unless the person is exempted from the requirement by subdivisions (c), (d), (e), (f), (g), (h), (i), (j), (k), (*l*), (m), and (n).

(1) The governing board of a school district, with the authorization of the Commission on Teacher Credentialing, may administer the basic skills proficiency test required under the provisions of Sections 44252 and 44252.5.

(2) The superintendent, in conjunction with the commission and local governing boards, shall take steps necessary to ensure the effective implementation of this subdivision.

It is the intent of the Legislature that in effectively implementing the provisions of this subdivision, school district governing boards shall direct superintendents of schools to prepare for emergencies by developing a pool of qualified emergency substitute teachers. This preparation shall include public notice of the test requirements and of the dates and locations of administrations of the tests. District governing boards shall make special efforts to encourage individuals who are known to be qualified in other respects as substitutes to take the state basic skills proficiency test at its earliest administration.

(3) Demonstration of proficiency in reading, writing, and mathematics by any person pursuant to Section 44252 shall satisfy the requirements of this subdivision.

(c) A certificated person shall not be required to take the state basic skills proficiency test if he or she has been employed in a position requiring certification in any school district within 39 months prior to employment with the district.

(d) Nothing in this section shall require a person employed solely for purposes of teaching adults in an apprenticeship program,

approved by the Apprenticeship Standards Division of the Department of Industrial Relations, to pass the state proficiency assessment instrument as a condition of employment.

(e) Nothing in this section shall require the holder of a child care permit or a permit authorizing service in a development center for the handicapped to take the state basic skills proficiency test, so long as the holder of the permit is not required to have a baccalaureate degree.

(f) Nothing in this section shall require the holder of a credential issued by the commission who seeks an additional credential or authorization to teach, to take the state basic skills proficiency test.

(g) Nothing in this section shall require the holder of a credential to provide service in the health profession to take the state basic skills proficiency test, so long as that person does not teach in the public schools.

(h) If the basic skills proficiency test is not administered at the time of hiring, the holder of a vocational designated subject credential who has not already taken and passed the basic skills proficiency test may be hired on the condition that he or she will take the test at its next local administration.

(i) If the holder of a vocational designated subject credential does not pass a proficiency assessment in basic skills pursuant to this section, he or she shall be given one year in which to retake and pass the proficiency assessment in basic skills. If at the expiration of the one-year period he or she has not passed the proficiency assessment in basic skills, he or she shall be subject to dismissal under procedures established in Article 3 (commencing with Section 44930) of Chapter 4.

(j) Nothing in this section shall be construed as requiring the holder of a vocational designated subject credential to pass the state basic skills proficiency test as a condition of employment. The governing board of each school district, or each governing board of a consortium of school districts, or each governing board involved in a joint powers agreement, which employs the holder of a vocational designated subject credential shall establish its own basic skills proficiency for these credentials and shall arrange for those individuals to be assessed. The basic skills proficiency criteria established by the governing board shall be at least equivalent to the test required by the district, or in the case of a consortium or a joint powers agreement, by any of the participating districts, for graduation from high school. The governing board or boards may charge a fee to individuals being tested to cover the costs of the test, including the costs of developing, administering, and grading the test.

(k) Nothing in this section shall be construed as requiring the holder of an adult education designated subject credential for other than academic subjects, who is employed in an instructional setting for 20 hours or less per week, to pass the state proficiency assessment as a condition of employment.

(*l*) Nothing in this section shall be construed to require certificated personnel employed under a foreign exchange program to take the state basic skills proficiency test. The maximum period of exemption under this subdivision shall be one year.

(m) A school district may hire a teacher credentialed in another state who has not taken the state basic skills test if, at a public meeting, the school district governing board certifies that no person who meets the credentialing requirements and who has satisfied the basic skills requirement specified in Section 44261.5 is available to fill a position deemed necessary to the normal operation of the school curriculum. The board shall include in the certification a statement of the need to fill the position and the reasons for the need, proof of its attempts to recruit qualified teachers in California, and a statement attesting to the failure of those attempts. Such certification shall be submitted to the commission with the name of the teacher the board intends to employ pursuant to this section. The commission shall issue an emergency credential pursuant to paragraph 3 of subdivision (b) of Section 44252, upon receipt of this documentation.

(n) Notwithstanding any other provision of law, a school district may hire a certificated teacher who has not taken the state basic skills proficiency test if that person has not yet been afforded the opportunity to take the test. The person shall then take the test at the earliest opportunity and may remain employed by the district pending the receipt of his or her test results.

(o) The commission shall require that each applicant for a credential issued by the commission, unless exempted by the provisions of Section 44252, take the state basic skills proficiency test for diagnostic purposes. Each applicant shall take the test no later than the deadline for the submission of his or her application for entrance to the credential program. Test results shall be forwarded to each California postsecondary institution to which the applicant has applied.

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 1039

An act to add and repeal Article 6.5 (commencing with Section 18510) to Chapter 17 of Part 10 of Division 2 of, the Revenue and Taxation Code, relating to aging, and making an appropriation therefor.

[Approved by Governor September 22, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Article 6.5 (commencing with Section 18510) is added to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 6.5. Designations to the California Seniors' Fund

18510. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the California Seniors' Fund established by Section 18511 to be used to conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable.

In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the tax liability, if any, shown thereupon, the return shall be treated as though no designation had been made.

In the event that no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund.

The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) In the event a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the forms of the return to include a space labeled the "California Seniors' Fund" to allow for the designation permitted under subdivision (a). The forms shall also include in the instructions the information that the contribution may be in the amount of one dollar ($1) or more and that the contribution will be used to conduct the sessions of the California Senior Legislature and to support its ongoing activities on behalf of older persons.

(f) No deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

18511. There is hereby established in the State Treasury the California Seniors' Fund to receive contributions made pursuant to

Section 18510.

The Franchise Tax Board shall notify the Controller of both the amount of money paid by taxpayers in excess of their tax liability and the amount of refund money which taxpayers have designated pursuant to Section 18510 to be transferred to the California Seniors' Fund. The Controller shall transfer from the Personal Income Tax Fund to the California Seniors' Fund an amount not in excess of the sum of the amounts designated by individuals pursuant to Section 18510 for payment into that fund.

18512. Notwithstanding Section 13340 of the Government Code, all money transferred to the California Seniors' Fund pursuant to Section 18511 is hereby continuously appropriated, without regard to fiscal years, for allocation as follows:

(a) To the Franchise Tax Board for reimbursement of all costs incurred by the Franchise Tax Board in connection with its duties under this article.

(b) To the California Commission on Aging for allocation as follows:

(1) To the California Senior Legislature for the 1984 calendar year, and each succeeding calendar year thereafter, the sum of seventy-five thousand dollars ($75,000), or the balance of the fund if less than that amount remains in the fund, for the conduct of sessions of the California Senior Legislature.

(2) The balance, if any, but not to exceed two hundred fifty thousand dollars ($250,000), to the California Senior Legislature in any calendar year for its ongoing activities on behalf of older persons.

(3) The balance, if any, to the commission for senior citizen direct service programs through contracts with the Department of Aging.

18513. The provisions of this article shall be applicable to taxes paid and refunds payable for the 1983, 1984, and 1985 taxable years.

18514. This article shall remain in effect until December 31, 1986, and on that date is repealed, unless a later enacted statute, which is chaptered on or before December 31, 1986, deletes or extends that date.

CHAPTER 1040

An act to amend Sections 89500 and 89504 of, and to add Sections 89008, 89501, 89505.5, 89523, 89524, 89525, 89526, 89527, and 89557 to, the Education Code, and to amend Sections 3572.5, 19823, 19830, 19831, 19839, 19842, 19847, 19850, 19850.1, 19850.2, 19850.3, 19850.4, 19850.5, 19851, 19852, 19853, 19854, 19856.1, 19858.1, 19859, 19861, 19862, 19863, 19863.1, 19866, and 19868.1 of, to add Sections 18717 and 19993.8 to, and to repeal Sections 18861, 19815.1, 19838, 19858, and 19867 of, the Government Code, relating to state employees.

[Approved by Governor September 22, 1983 Filed with Secretary of State September 22, 1983.]

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

SECTION 1. Section 89008 is added to the Education Code, to read:

89008. The trustees shall prescribe rules and regulations governing the use of state-owned or leased motor vehicles by employees of the California State University. The rules shall include the remedies of assessing actual costs of misuse of state-owned or leased motor vehicles, and employee discipline under Section 89535.

SEC. 2. 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, uniform and equipment allowances, travel expenses and allowances, rates for housing and lodging, except that no charges shall be assessed against residences occupied by the Chancellor or the presidents during the 1983–84 fiscal year, moving expenses, leave of absence, tenure, vacation, holidays, 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 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. 3. Section 89501 is added to the Education Code, to read:

89501. (a) For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, the trustees may authorize payment of all or a part of the travel expense of applicants who are called for interview and all or a part of the travel and moving expense of persons who change their place of residence to accept employment with the state. These payments shall be made only upon the certification of the trustees that the expenditure is necessary in order to recruit qualified persons needed by the California State

University.

If, for reasons that do not meet the approval of the trustees, the employee or applicant for employment does not accept or continue the employment for a period of two years, he or she shall reimburse the trustees for the moving and travel expenses for the full or proportionate amount.

For the purposes of this section, satisfactory reasons for not completing two years of employment shall be death, prolonged illness, disability, unacceptability of the applicant or employee to the trustees, and similar eventualities beyond the control of the applicant or employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to 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 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. 4. Section 89504 of the Education Code is amended to read:

89504. (a) Upon separation from service without fault on his or her part, an employee is entitled to a lump-sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which the employee is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the trustees. This sum shall be computed by projecting the accumulated time on a calendar basis so that the lump sum will equal the amount which the employee would have been paid had the employee taken the time off but not separated from the service.

(b) Employees separated from service through fault of their own are entitled to a lump-sum payment for compensating time off for overtime work, and in addition, the portion, if any, of unused vacation as the trustees may determine. The computation of this sum shall be based on actual accumulated time without projection as provided in subdivision (a).

(c) Lump-sum payment for vacation shall not be made to a person who separates from a position for the purpose of accepting another position in the state service, except either of the following:

(1) Upon movement to a position in which vacation credits are neither accrued nor used.

(2) Upon reassignment of an employee, subsequent to January 1, 1965, from a position other than an academic year position, to an academic year position.

However, a lump-sum payment shall not be made to a person who returns to a position in the same class within 15 working days of the date of the person's resignation.

(d) Except for payment authorized or excluded under subdivision (c), an employee who returns to state service during the period

through which his or her lump-sum payment was computed may refund the amount of lump-sum payment which exceeds his or her break in service and have the balance of credits restored as though he or she had remained in state service and taken the time off.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to 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 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 89505.5 is added to the Education Code, to read:

89505.5. (a) Officers and employees of the California State University may participate in the deferred compensation plan established pursuant to Section 19993 of the Government Code upon compliance with the statutory prerequisites for participation in the plan.

(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 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. 6. Section 89523 is added to the Education Code, to read:

89523. (a) Any employee who, immediately prior to becoming an employee, was an employee of an auxiliary organization as provided in Section 89900, and whose functions and employment were, subsequent to January 1, 1969, transferred to and assumed by a state university or college, shall be entitled to accumulate credit for vacation at the rate to which he or she would have been entitled if his or her employment by the auxiliary organization had been employment by a state university or college.

(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 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. 7. Section 89524 is added to the Education Code, to read:

89524. (a) Any employee who, immediately prior to becoming an employee, was an employee of an auxiliary organization as provided in Section 89900, and whose functions and employment were, subsequent to January 1, 1969, transferred to and assumed by a state university or college, shall be entitled to retain accumulated

sick leave, and to accumulate sick leave credit as if his or her employment by the auxiliary organization had been employment by a state university or college.

(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 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. 8. Section 89525 is added to the Education Code, to read:

89525 When an employee uses sick leave or vacation, or both, because of an injury compensable under the Labor Code, and the California State University is reimbursed by a third person for its damages by reason of this use, there shall be granted, for credit to the employee's sick leave or vacation account, sick leave or vacation equivalent to the amount so used or proportionately if reimbursement is only in part. If the California State University does not collect from the third person the full amount of the compensation paid and other damages for which it is liable to the employee, and if the amount collected is not itemized so that there may be ascertained the amount collected in reimbursement for the sick leave or vacation used, the sick leave or vacation to be credited shall be in the same ratio to the sick leave or vacation used as the total amount collected bears to the total amount of the California State University's damages. "Sick leave" or "vacation," as used in this rule, includes sick leave or vacation credit used to augment disability indemnity.

SEC. 9. Section 89526 is added to the Education Code, to read:

89526. The trustees shall adopt rules and regulations necessary for the administration of industrial disability leave and nonindustrial disability leave consistent with 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.

SEC. 10. Section 89527 is added to the Education Code, to read:

89527. (a) An officer or employee who is or may be entitled to temporary disability indemnity under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100) of the Labor Code shall receive any accumulated sick leave, or accumulated compensable overtime, or accumulated vacation for the absence. The trustees shall decrease the charge of sick leave, or compensable overtime, or vacation in the amount of temporary disability payment received so that the officer or employee shall not receive payment in excess of full salary or wage.

If an officer or employee does not wish to use his or her accumulated sick leave, or accumulated compensable overtime, or accumulated vacation, he or she shall notify his or her appointing power within 15 days after the injury is reported to the appointing

power. After the 15 days his or her accumulations shall be used until the date he or she notifies the appointing power in writing that he or she no longer wishes to use the accumulations. When computing sick leave, or overtime, or vacation under this section the employee shall be given credit for any holidays that occur during the period of absence hereunder.

He or she is, nevertheless, entitled to medical, surgical, and hospital treatment as provided in the Labor Code. When his or her accumulated sick leave, or overtime, or vacation, or all, are exhausted, he or she is still entitled to receive disability indemnity.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to 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 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. 11. Section 89557 is added to the Education Code, to read:

89557. The trustees shall adopt appropriate rules and guidelines relating to the implementation of the Reduced Worktime Act in Article 1.6 (commencing with Section 19996.20) of Chapter 7 of Part 2.6 of Division 5 of Title 2 of the Government Code, for employees of the California State University

SEC. 12. 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, 89501, 89502, 89503, 89504, 89505, 89505.5, 89506, 89507, 89508, 89509, 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89523, 89524, 89527, 89531, 89532, 89533, 89534, 89537, 89541, 89542, 89542.5, 89543, 89544, 89545, 89546, 89550, 89551, 89552, 89553, 89554, 89555, 89556, 89557, 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, 19841, 19848, 19850.6, 19864, 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. 12.5. 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, 89501, 89502, 89503, 89504, 89505, 89505.5, 89506, 89507, 89508, 89509, 89510, 89512, 89513, 89514, 89515, 89516, 89517, 89518, 89519, 89520, 89523, 89524, 89527, 89531, 89532, 89533, 89534, 89537, 89538, 89539, 89540, 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, 19841, 19848, 19850.6, 19864, 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. 13. Section 18717 is added to the Government Code, to read:

18717. (a) The board shall develop objective criteria for determining the application of the state safety category of membership in the Public Employees' Retirement System to positions in the State Civil Service. Upon the request of the Department of Personnel Administration, the board shall then determine which classes of positions meet all or part of the elements of the criteria and shall list the positions in order based upon the degree in which their duties meet the criteria and shall indicate to the department whether the classes qualify for state safety membership. The Public Employees' Retirement System and employing agencies shall assist and cooperate with the board in preparation of the report.

(b) The State Personnel Board shall transmit the report directly to the department, which shall make a copy available to the exclusive representative of any employee organization upon their written request.

(c) The department may use the results of the study in subsequent negotiations with the exclusive employee representatives; however, the report shall in no way obligate the department to take any action or make any recommendations as it relates to state safety membership.

(d) The department shall not recommend safety membership for any class of employees who have not been determined by the board to meet the established criteria.

(e) For classes of employees recommended for state safety membership by a memorandum of understanding reached pursuant to Section 3517.5, a copy of the report authorized under this section shall be submitted to the Legislature with the signed memorandum of understanding.

SEC. 14. Section 18861 of the Government Code is repealed.

SEC. 15. Section 19815.1 of the Government Code is repealed.

SEC. 16. Section 19823 of the Government Code is amended to read:

19823. The department may make awards to current or retired state employees who:

(a) Propose procedures or ideas which hereafter have been adopted and which will result in eliminating or reducing state expenditures or improving operations; provided, the proposals are placed in effect; or

(b) Perform special acts or special services in the public interest; or

(c) By their superior accomplishments, make exceptional contributions to the efficiency, economy or other improvement in the operations of the state government.

Awards for superior accomplishments shall be made in accordance with procedures and standards established by the department.

Any award made by the department under the provisions of this section may be paid from the appropriation available to the state agency affected by the award.

The director may adopt rules and regulations to carry out the provisions of this section, and may appoint merit award boards made up of state officers, employees, or citizens to consider employee proposals, special acts, special services, or superior accomplishments, and to make recommendations to the department as to the merits of the proposals, special acts, special services, or superior accomplishments, and whether or not the proposals, special acts, special services, or superior accomplishments justify an award.

Any award granted under the provisions of this section shall be limited to three thousand dollars ($3,000) unless a larger award is approved by concurrent resolution of the Legislature.

Any expenditures made or costs incurred heretofore or hereafter by the director for the purposes of this section may be paid from funds available for the support of the department.

SEC. 17. Section 19830 of the Government Code is amended to read:

19830. (a) The minimum and maximum salary limits for laborers, workers, and mechanics employed on an hourly or per diem basis need not be uniform throughout the state, but the appointing power shall ascertain and report to the department, as to each position, the general prevailing rate of the wages in the various localities of the state.

In fixing the minimum and maximum salary limits within the various localities of the state, the department shall take into account the prevailing rates of wages in the localities in which the employee is to work and other relevant factors, and shall not fix the minimum salary limits below the general prevailing rate so ascertained and reported for the various localities.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 18. Section 19831 of the Government Code is amended to read:

19831. (a) The department may authorize payments into a private fund to provide health and welfare benefits to nonpermanent employees in classes compensated in accordance with the provisions of Section 19830 where the department finds as to any position that:

(1) The payments by employers are the prevailing practice in comparable employment in the locality of the work and the payments are for the purpose of providing to employees specified benefits such as, but not limited to, hospital, medical, surgical, and life insurance, sick leave, vacation allowance, pensions, supplementary unemployment and disability compensation, and other similar or related health and welfare benefits, or any combination thereof.

(2) Participation in the benefits provided by the funds is not limited to state employees.

(3) The provisions of the plans which provide the benefits meet the standards established by the department.

(b) Payments made by the state to any fund on behalf of any employee shall be in lieu of benefits such as vacation allowance, sick leave, and retirement which are now or may hereafter be granted directly by the state in accordance with law.

(c) The department is empowered to determine the equitable application of this section to insure that the employees receive benefits comparable to, but not in excess of, those provided in comparable private employment.

(d) The payments authorized by this section shall be a proper charge against any funds available for the support of the employing agency.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 19. Section 19838 of the Government Code is repealed.

SEC. 20. Section 19839 of the Government Code is amended to read:

19839. (a) Upon separation from service without fault on his or her part, a person is entitled to a lump-sum payment as of the time of separation for any unused or accumulated vacation or for any time off to which he or she is entitled by reason of previous overtime work where compensating time off for overtime work is provided for by the appointing power or by rules of the department. This sum shall be computed by projecting the accumulated time on a calendar basis

so that the lump sum will equal the amount which the employee would have been paid had he or she taken the time off but not separated from the service.

(b) Persons separated from service through fault of their own are entitled to a lump-sum payment for compensating time off for overtime work, and in addition, the portion, if any, of unused vacation as the department may determine. The computation of this sum shall be based on actual accumulated time without projection as provided in subdivision (a).

(c) Lump-sum payment for vacation shall not be made to a person who separates from a position for the purpose of accepting another position in the state service except upon movement to a position in which vacation credits are neither accrued nor used. However, a lump-sum payment shall not be made to a person who returns to a position in the same class and agency within 15 working days of the date of his or her resignation.

(d) Except for payment authorized or excluded under subdivision (c), an employee who returns to state service during the period through which his or her lump-sum payment was computed may refund the amount of lump-sum payment which exceeds his or her break in service and have the balance of credits restored as though he or she had remained in state service and taken the time off.

(e) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 21. Section 19842 of the Government Code is amended to read:

19842. (a) For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, the department may authorize payment of all or a part of the travel expense of applicants who are called for interview and all or a part of the travel and moving expense of persons who change their place of residence to accept employment with the state. These payments shall be authorized only upon the certification of the appointing power and the department that the expenditure is necessary in order to recruit qualified persons needed by the state.

If, for reasons that do not meet the approval of the state department concerned, the employee or applicant for employment does not accept or continue the employment for a period of two years, he or she shall reimburse the state department for the moving and travel expenses for the full or proportionate amount.

For the purposes of this section, satisfactory reasons for not completing two years of employment shall be death, prolonged illness, disability, unacceptability of the applicant or employee to the

state department, and similar eventualities beyond the control of the applicant or employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 22. Section 19847 of the Government Code is amended to read:

19847. (a) Every state agency in which there are employees not subject to state civil service shall submit to the department all information necessary for determination of the workweek for each employee.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 23. Section 19850 of the Government Code is amended to read:

19850. As used in this article:

(a) "Uniform" means outer garments, excluding shoes, which are required to be worn exclusively while carrying out the duties and responsibilities of the position and which are different from the design or fashion of the general population. This definition includes items that serve to identify the person, agency, functions performed, rank, or time in service.

(b) "Work clothes" means attire that is worn over, or in place of, regular clothing and is necessary to protect the employee's clothing from damage or stains which would be present in the normal performance of his or her duties, for example, aprons, lab smocks, shop coats, or coveralls; or is necessary for the required sanitary conditions, for example, agriculture inspectors, surgery personnel, or food service.

(c) "Safety equipment" means equipment or attire worn over, in place of, or in addition to, regular clothing, which is necessary to protect the employees' health and welfare, for example, helmets, goggles, safety harnesses, and fireman "turnout gear."

(d) "Police protective equipment" means equipment or attire worn by law enforcement personnel for the purpose of protecting themselves or the public from overt actions of others or to assist in the carrying out of related duties, for example, handgun, baton, billy, handcuffs, flashlight, whistle, leather belt, holster and cases or attachments.

(e) "State employees" means employees of the state and its

agencies, but does not include employees of the University of California or the California State University.

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 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. 24. 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, 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. 25. Section 19850.2 of the Government Code is amended to read:

19850.2. Each state employee, including employees having probationary status, employed in a position which is permanent and full time, or employed in a position which is less than full time for the equivalent of one year, shall receive the allowance for uniforms provided for in Section 19850.1, if:

(a) The uniform is clearly necessary for ready visual identification by the public for law enforcement, public safety, or other closely related purposes; and

(b) The employee is required by his or her appointing power to wear the uniform for the regular performance of his or her duties; and

(c) The uniform is authorized for wear only in an official capacity.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 26. 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 19850.1 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, 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. 27. Section 19850.4 of the Government Code is amended to read:

19850.4. Subject to the availability of funds appropriated specifically for that purpose, each state employee shall be furnished work clothes if:

(a) The work clothes are required for purposes of sanitation or cleanliness; and

(b) The work clothes are required by the appointing power; and

(c) The work clothes are of a standard size instead of a measured size.

Work clothes provided pursuant to this section will be maintained

and owned by the state. Items lost or damaged due to the negligence of the employee, shall be replaced by the employee at his or her expense.

If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 28. Section 19850.5 of the Government Code is amended to read:

19850.5. (a) The state shall furnish the initial issuance of all safety equipment and police protective equipment required by the employing state agency. All safety equipment and police protective equipment provided pursuant to this section shall remain the property of the state. Items lost or damaged due to the negligence of the employee, shall be replaced by the employee at his or her expense.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 29. Section 19851 of the Government Code is amended to read:

19851. (a) It is the policy of the state that the workweek of the state employee shall be 40 hours, and the workday of state employees eight hours, except that workweeks and workdays of a different number of hours may be established in order to meet the varying needs of the different state agencies. It is the policy of the state to avoid the necessity for overtime work whenever possible. This policy does not restrict the extension of regular working-hour schedules on an overtime basis in those activities and agencies where it is necessary to carry on the state business properly during a manpower shortage.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 30. Section 19852 of the Government Code is amended to read:

19852. When the Governor determines that the best interests of the state would be served thereby, the Governor may require that

the 40-hour workweek established as the state policy in Section 19851 shall be worked in four days in any state agency or part thereof.

SEC. 31. Section 19853 of the Government Code is amended to read:

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

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of these holidays, shall be entitled to be paid compensation or given compensating time off for that 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, 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. 32. Section 19854 of the Government Code is amended to read:

19854. (a) Every employee shall be entitled to one personal holiday per calendar year. The employer may require the employee to provide five working days' notice in advance of the personal holiday. The department may provide by rule for the granting of this holiday for employees.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 33. Section 19856.1 of the Government Code is amended to read:

19856.1. (a) It shall be within the discretion of the department to define the effect of an absence from the payroll of 10 working days or less in any calendar month upon credit for vacation.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 34. Section 19858 of the Government Code is repealed.

SEC. 35. Section 19858.1 of the Government Code is amended to read:

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

1 month to 3 years	5/6 days per month
37 months to 10 years	1¼ days per month
121 months to 15 years	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, 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	7/8 days per month
37 months to 10 years	1 1/4 days per month
121 months to 15 years	1 1/2 days per month
181 months to 20 years	1 5/8 days per month
241 months and over	1 3/4 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. 36. Section 19859 of the Government Code is amended to read:

19859. (a) Following completion of one month of continuous service, except as otherwise provided in Section 19863.1, each state officer and employee who is employed full time shall be allowed one day of credit for sick leave with pay. Thereafter, for each additional calendar month of service, except as provided in Section 19861, one day of credit for sick leave with pay shall be allowed. Each state officer or employee is entitled to this leave with pay, on the submission of satisfactory proof of the necessity for sick leave as provided by rule of the department. For purposes of computing sick leave, each employee shall be considered to work not more than five days each week. The department shall provide by rule for the regulation and method of accumulation of sick leave for civil service employees, and may provide sick leave for those who work less than full time. Subject to department rule sick leave may be granted to

employees for the purpose of physical examinations.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 37. Section 19861 of the Government Code is amended to read:

19861. (a) It shall be within the discretion of the department to define the effect of an absence from the payroll of 10 working days or less in any calendar month upon credit for sick leave.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 38. Section 19862 of the Government Code is amended to read:

19862. (a) Sick leave may be accumulated, and no additional sick leave with pay beyond that accumulated shall be granted, except as provided in Section 19863.1.

(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 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. 39. Section 19863 of the Government Code is amended to read:

19863. (a) A state officer or employee who is or may be entitled to temporary disability indemnity under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100) of the Labor Code shall receive any accumulated sick leave, or accumulated compensable overtime, or accumulated vacation for the absence. The appointing power shall decrease the charge of sick leave, or compensable overtime, or vacation in the amount of temporary disability payment received so that the state officer or employee shall not receive payment in excess of full salary or wage.

If a state officer or employee does not wish to use his or her accumulated sick leave, or accumulated compensable overtime, or accumulated vacation, he or she shall notify his or her appointing power within 15 days after the injury is reported to the appointing power. After the 15 days his or her accumulations shall be used until the date he or she notifies the appointing power in writing that he

or she no longer wishes to use the accumulations. When computing sick leave, or overtime, or vacation under this section the employee shall be given credit for any holidays that occur during the period of absence hereunder.

He or she is nevertheless entitled to medical, surgical, and hospital treatment as provided in the Labor Code. When his or her accumulated sick leave, or overtime, or vacation, or all, are exhausted, he or she is still entitled to receive disability indemnity.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 40. Section 19863.1 of the Government Code is amended to read:

19863.1. (a) Notwithstanding any other provision of the law to the contrary, a state officer or employee who is entitled to temporary disability indemnity under Division 4 (commencing with Section 3200) or Division 4.5 (commencing with Section 6100) of the Labor Code as a result of an industrial accident occurring during a period of employment for which he or she is not earning sick leave credit shall have sick leave credit of one day for each completed month of service during the time that he or she is not earning sick leave credit. If the employee is disabled because of an industrial injury arising out of said employment during said period the employee may elect to draw sick leave credit during the period of disability, the credit not to exceed one day of sick leave for each completed month of service that he or she is not earning sick leave credit and not to exceed a total of six days.

(b) If the provisions of this section are in conflict with the provisions of a memorandum of understanding reached pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if 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. 41. Section 19866 of the Government Code is amended to read:

19866. (a) The appointing power of any officer or employee not a member of the civil service shall administer the sick leave authorized by this part for the officers or employees in accordance with the rules 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 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. 42. Section 19867 of the Government Code is repealed.

SEC. 43. Section 19868.1 of the Government Code is amended to read:

19868.1. For the purposes of Sections 19859, 19860, 19861, 19862, 19862.1, 19863, 19863.1, 19864, 19865.1, 19866, and 19868, sick leave benefits provided to state employees pursuant to the state sick leave system shall be construed to mean compensation paid to employees on approved leaves of absence on account of sickness.

SEC. 44. Section 19993.8 is added to the Government Code, to read:

19993.8. Section 89008 of the Education Code, and not this chapter, shall govern use of state-owned motor vehicles by employees of the California State University.

SEC. 45. Section 12.5 of this bill incorporates amendments to Section 3572.5 of the Government Code proposed by both this bill and AB 1010. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 3572.5 of the Government Code, and (3) this bill is enacted after AB 1010, in which case Section 12 of this bill shall not become operative.

CHAPTER 1041

An act to amend Section 14006 of, and to add Section 14006.1 to, the Welfare and Institutions Code, relating to Medi-Cal, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1. Section 14006 of the Welfare and Institutions Code is amended to read:

14006. (a) For the purposes of Sections 14005.4 and 14005.7, the term "other resources" means the real or personal property, or any combination of both, held by a medically needy or medically indigent individual or family.

(b) For the purposes of this section, the term "principal residence" means the home, including a multiple-dwelling unit, in which the individual resides or formerly resided. The home will continue to be considered the principal residence if any of the following is applicable: (1) during any absence, the individual intends to return to the home; (2) the individual lives in a skilled nursing or intermediate care facility and can reasonably be expected to return home; (3) the individual's spouse or a dependent relative

of the individual continues to reside in the home during the individual's absence; (4) the individual does not have the right, authority, power, or legal capacity to liquidate the property, but a bona fide effort is being made to attain the right, authority, power, or legal capacity to liquidate the property; (5) the property cannot readily be converted to cash but a bona fide effort is being made to sell the property; (6) if it is a multiple-dwelling unit, one unit of which is occupied by the applicant or recipient, any unit not occupied by the applicant or recipient is producing income for the individual or family reasonably consistent with its value; or (7) it is inhabited by any sibling or child of the recipient who has continuously resided in the property since at least one year prior to the date the owner entered a skilled nursing or intermediate care facility. The state shall have a lien against the property, to the extent permitted by federal law, for the cost of medical services. The lien shall be recorded, and from the date of recording shall have force, effect, and priority of a judgment lien.

For purposes of this subdivision, "bona fide effort" means that the property shall be listed with a licensed real estate broker at the value determined to be the fair market value by a qualified real estate appraiser and the applicant or recipient provides evidence that a continuous effort is being made to sell the property, offers at fair market value are accepted, and all offers are reported.

(c) The amount of other resources is limited to not more than one thousand five hundred dollars ($1,500) for an aged, blind or disabled individual, or not more than three thousand dollars ($3,000) for an aged, blind or disabled individual and his spouse. For a medically needy family person or for a medically indigent person or family, this limit shall be established at not less than one thousand five hundred dollars ($1,500) and not more than three thousand dollars ($3,000), in accordance with family size. In addition, a medically needy or medically indigent person or family may retain: (1) other property in accordance with the provisions of Sections 11158 and 12152 of this code; (2) real property other than the principal residence, up to a value of six thousand dollars ($6,000) provided it is producing income for the individual or family reasonably consistent with its value; (3) the principal residence; (4) any additional resources allowed under the provisions of Title XVI of the Social Security Act.

(d) The director, to meet the requirements of the federal Social Security Act and to insure the highest percentage of federal financial participation in the program provided by this chapter, may decrease or increase the amounts set forth herein.

(e) If the holdings are in the form of real property, the value shall be the assessed value, determined under the most recent county property tax assessment, less the unpaid amount of any encumbrance of record.

If the real property other than the home is not producing income reasonably consistent with its value, the applicant or recipient shall be allowed reasonable time to begin producing such income from the

property. If the property cannot produce reasonable income or be sold based on the market value, the applicant or recipient shall be allowed to submit evidence from a qualified real estate appraiser which indicates the value for which the property can be adequately utilized or sold. If the applicant or recipient provides evidence that the only method of adequately utilizing the property is sale, and the property has not been sold at market value during a reasonable period of time, the property shall be considered to be adequately utilized provided it is listed with a licensed real estate broker at the value determined to be the fair market value by a qualified real estate appraiser and the applicant or recipient provides evidence that a bona fide and continuous effort is being made to sell the property.

(f) Any mortgage or note secured by a deed of trust shall be deemed real property if its value does not exceed six thousand dollars ($6,000) and it is obtained by the applicant or recipient, or in combination with his spouse, through the sale of such real property.

(g) If the holdings consist of money on deposit, the value shall be the actual amount thereof. If the holdings are in any other form of personal property or investment, except life insurance, the value shall be the conversion value as of the date of application or the anniversary date of such application. If the holdings are in the form of life insurance, the value shall be the cash value as of the policy anniversary nearest the date of such application.

(h) The value of property holdings shall be determined as of the date of application and, if the person is found eligible, this determination shall establish the amount of such holdings to be considered during the ensuing 12 months except a new determination to govern during the succeeding 12 months shall be made on the first anniversary date of the application or such alternate date as may be established following the acquisition of additional holdings as provided in the following paragraph and on each succeeding anniversary date thereafter.

(i) If any person shall by gift, inheritance, or other manner, acquire additional holdings during any such interval, other than from his own earnings, he shall immediately report such acquisition, and the anniversary date shall become the date of such acquisition.

SEC. 2. Section 14006.1 is added to the Welfare and Institutions Code, to read:

14006.1. (a) The State Director of Health Services shall adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 3 of the Government Code to implement subdivision (b) of Section 14006. The adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health or safety. Notwithstanding the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the Department of Health Services in order to implement subdivision (b) of Section 14006 shall

not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

(b) Any provision of Section 14006 that is in conflict with any federal statute or regulation shall be inapplicable to the extent of this conflict, but the provision and the remainder of the provisions shall be unaffected to the extent that no conflict exists.

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 provide relief to certain recipients whose Medi-Cal eligibility was terminated by statutory amendment in 1982, it is necessary that this act take effect immediately.

CHAPTER 1042

An act to add and repeal Chapter 4 (commencing with Section 1300) to Division 6 of the Military and Veterans Code, relating to veterans, and making an appropriation therefor.

[Approved by Governor September 22, 1983 Filed with Secretary of State September 22, 1983]

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

SECTION 1 Chapter 4 (commencing with Section 1300) is added to Division 6 of the Military and Veterans Code, to read:

CHAPTER 4. VIETNAM VETERANS MEMORIAL

1300. There is in state government the Vietnam Veterans Memorial Commission composed of nine members, as follows:

(a) Two members appointed by the Speaker of the Assembly, at least one of whom shall be a Member of the Assembly. The nonlegislative member shall be a Vietnam veteran.

(b) Two members appointed by the Senate Committee on Rules, at least one of whom shall be a Member of the Senate. The nonlegislative member shall be a Vietnam veteran.

(c) Five members appointed by the Governor, one of whom shall be a member of the Governor's staff or a Governor's appointee in the executive branch of state government and at least four of whom shall be Vietnam veterans.

The members shall elect one of their number to serve as chairperson.

1301. At least six members of the commission shall be Vietnam veterans.

Members of the Legislature shall serve on the commission as ex

officio members without vote and shall participate in the activities of the commission to the extent that the participation is not incompatible with their legislative duties.

Members of the commission shall receive no compensation but, except for the legislative members, shall receive a per diem and expenses while engaged in commission activities.

1302. The commission may request staff support and facilities for its activities from the Department of Veterans Affairs, and the department may provide that support.

1303. (a) The construction of a memorial to California's Vietnam veterans on the grounds of the State Capitol is hereby authorized. For purposes of this chapter, the grounds of the State Capitol are that property in the City of Sacramento bounded by Ninth, Fifteenth, "L", and "N" Streets. The actual site for the memorial shall be selected by the commission after consultation with the Department of General Services.

(b) Funds for the construction of the memorial shall be provided through private contributions. The commission may receive contributions for this purpose.

1304. With respect to the design and construction of the memorial, the commission may do all of the following:

(a) Establish a schedule for the design, construction, and dedication of the memorial.

(b) Implement procedures to solicit designs for the memorial and devise a selection process for the choice of the design.

(c) Select individuals or organizations to provide fundraising services and to construct the memorial.

(d) Review and monitor the design and construction of the memorial and establish a program for the dedication of the memorial.

(e) Report to the Legislature through the Assembly Select Committee on Veterans' Affairs biannually on the progress of the memorial.

1305. The design of the memorial shall be as politically neutral as possible with respect to the nature of the Vietnam conflict.

1306. (a) The sum of twenty-five thousand dollars ($25,000) is hereby appropriated from the General Fund to the commission as a loan for purposes of this chapter. The commission shall reimburse the amount of this appropriation, plus interest at the same rate of interest as that earned by moneys invested in the Pooled Money Investment Account during the term of the loan, from the first contributions received by the commission under this chapter.

(b) The Vietnam Veterans Memorial Account in the General Fund is hereby established. All funds received by the commission under this chapter shall be deposited in the account. The money in the account is hereby appropriated to the commission for purposes of this chapter without regard to fiscal years.

1307. This chapter shall remain in effect only until January 1, 1986, and as of that date is repealed, unless a later enacted statute,

which is chaptered on or before January 1, 1986, deletes or extends that date.

CHAPTER 1043

An act to amend Sections 22222 and 22305 of, to add Section 22225.8 to, and to repeal Sections 22223, 22305, and 22306 of, the Education Code, and to amend Section 1372 of the Financial Code, and to repeal Sections 20205.1, 20205.2, 20205.3, and 20205.7 of the Government Code, relating to public retirement systems.

[Approved by Governor September 22, 1983 Filed with Secretary of State September 23, 1983]

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

SECTION 1. Section 22222 of the Education Code is amended to read.

22222. The board has exclusive control of the investment of the Teachers' Retirement Fund. Except as otherwise restricted by the California Constitution and by law, the board may in its discretion invest the assets of the fund through the purchase, holding, or sale thereof of any investment, financial instrument, or financial transaction when the investment, financial instrument, or financial transaction is prudent in the informed opinion of the board.

SEC. 2. Section 22223 of the Education Code is repealed.

SEC. 3. Section 22225.8 is added to the Education Code, to read:

22225.8. Notwithstanding Section 22222, the board may contract with or appoint one or more investment managers to manage the assets of the Teachers' Retirement Fund. If the board has acted with the care, skill, prudence, and diligence required in Section 22225.5 in selecting and monitoring the investment managers, then, notwithstanding Sections 22225.6 and 22225.7, no board member shall be liable for the acts or omissions of the investment managers or be under any obligation to invest or otherwise manage any assets of the Teachers' Retirement Fund which are subject to the management of the investment managers.

SEC. 4. 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, and not to exceed 25 percent in common stock or shares, and not to exceed 5 percent 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. 5. Section 22305 of the Education Code is repealed.

SEC. 6. Section 22306 of the Education Code is repealed.

SEC. 7. Section 1372 of the Financial Code is amended to read:

1372. The provisions of this chapter govern the investment of funds by commercial banks but wherever by any law of this state it is now provided that the moneys of any pension fund, retirement plan, trust fund, or the moneys of any special fund the investment of which is governed by law, or the funds of any political subdivision or public corporation may or shall be invested in securities which are a legal investment for savings banks, then such law shall be deemed to authorize or require, as the case may be, that such moneys be invested in securities in which savings banks were authorized to invest their funds by the provisions of the Bank Act as it read prior to January 1, 1949, other than paragraph (f) of subdivision 5 of Section 61 of said act, or in bonds, debentures, and notes legal for investment for savings banks in the State of New York or the State of Massachusetts as of the time the investment is made or in securities in which commercial banks are authorized to invest their funds by the provisions of Sections 1352 to 1366, inclusive.

The funds of the Legislators' Retirement System may be invested

in an amount not exceeding 20 percent of the assets of each of the respective systems as a whole and not by separate funds within each system, in securities, whether or not such securities are herein expressly authorized and whether or not they qualify hereunder, in which in the informed opinion of the respective boards or officers charged with the investment of funds of such systems it is prudent to invest retirement funds.

The funds of any retirement system established pursuant to the County Employees' Retirement Law of 1937 may be invested in an amount not exceeding 20 percent of the assets of such system, in securities whether or not such securities are herein expressly authorized, and whether or not they qualify hereunder, in which in the informed opinion of the board of investments where there is one, otherwise of the board of retirement it is prudent to invest retirement funds.

The funds of any school district retirement plan may be invested in an amount not exceeding 20 percent of the assets of such system, in securities whether or not such securities are herein expressly authorized, and whether or not they qualify hereunder, in which in the informed opinion of the district retirement board it is prudent to invest retirement funds.

The funds of any public retirement system to which this section applies may be invested in any stocks or shares of a diversified management investment company registered under the "Investment Company Act of 1940" which has total assets of at least fifty million dollars ($50,000,000); except that the total investment in such stocks and shares, together with stocks and shares of all other corporations, may not exceed 25 percent of the assets of such fund determined on the basis of the cost of the stocks or shares.

SEC. 8. Section 20205.1 of the Government Code is repealed.

SEC. 9. Section 20205.2 of the Government Code is repealed.

SEC. 10. Section 20205.3 of the Government Code is repealed.

SEC. 11. Section 20205.7 of the Government Code is repealed.

SEC. 12. Sections 2, 5, 6, 8, 9, 10, and 11 of this act shall become operative only if Assembly Constitutional Amendment No. 16 of the 1983–84 Regular Session is adopted by the electors at the June 5, 1984, statewide election and, in such event, shall become operative on the effective date of that measure and, in which case, Section 4 of this act shall remain operative only until the operative date of Section 5 of this act.

CHAPTER 1044

An act to amend Sections 25322, 25330, 25345, 25351, 25352, 25354, and 25355 of, and to add Sections 25319, 25330.2, 25330.5, 25351.5, 25358.1, 25358.2, 25358.3, 25358.5, 25358.6, 25358.7, 25358.8, 25359, 25359.1, and 25367 to, the Health and Safety Code, relating to

hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1983 Filed with Secretary of State September 23, 1983]

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

SECTION 1. Section 25319 is added to the Health and Safety Code, to read:

25319. "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. 2. Section 25322 of the Health and Safety Code is amended to read:

25322. "Remedy" or "remedial action" includes all of the following:

(a) Those actions which are consistent with a permanent remedy, that are taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous substance into the environment, as further defined by Section 101 (24) of the federal act (42 U.S.C. Sec. 9601 (24)), except that any reference in Section 101 (24) of the federal act (42 U.S.C. Sec. 9601 (24)) to the President, relating to determinations regarding the relocation of residents, businesses, and community facilities shall, for the purposes of this chapter, be deemed to be a reference to the Governor and any other reference in that section to the President shall, for the purposes of this chapter, be deemed a reference to the Governor, or the director, if designated by the Governor.

(b) Those actions which are necessary to monitor, assess, and evaluate a release or a threatened release of a hazardous substance.

(c) Site operation and maintenance.

SEC. 3. Section 25330 of the Health and Safety Code is amended to read:

25330. There is in the General Fund a Hazardous Substance Account which shall be administered by the director. In addition to any other moneys appropriated by the Legislature to the account, the following amounts shall be deposited in the account:

(a) All moneys recovered by the state account pursuant to Section 25360.

(b) Any moneys recovered by the State Board of Control pursuant to Section 25380.

(c) Any fines or civil penalties collected pursuant to Section 25343.

(d) The taxes collected pursuant to Article 4 (commencing with Section 25340).

(e) Any interest earned upon money deposited in the state

account.

(f) Any moneys received from the federal government pursuant to the federal act.

(g) Any moneys received from responsible parties for remedial action or removal at a specific site.

SEC. 4. Section 25330.2 is added to the Health and Safety Code, to read:

25330.2. Funds in the state account appropriated for removal or remedial action pursuant to this chapter are available for encumbrance for three fiscal years subsequent to the fiscal year in which the funds are appropriated and are available for disbursement in liquidation of encumbrances pursuant to Section 16304.1 of the Government Code.

SEC. 5. Section 25330.5 is added to the Health and Safety Code, to read:

25330.5. (a) The Controller shall establish a separate subaccount for site operation and maintenance in the state account. All of the following amounts shall be deposited in the subaccount:

(1) Funds received from responsible parties for site operation and maintenance.

(2) Funds received from the federal government pursuant to the federal act for site operation and maintenance.

(3) Funds received from cities, counties, or any other state or local agency for site operation and maintenance.

(4) Funds appropriated from the state account by the Legislature for site operation and maintenance.

(b) Notwithstanding Section 13340 of the Government Code, funds deposited in the subaccount for site operation and maintenance are hereby continuously appropriated to the department for site operation and maintenance, and for administrative costs associated with site operation and maintenance.

(c) Notwithstanding any other provision of law, money in the subaccount for site operation and maintenance shall not revert to the General Fund or be transferred to any other fund or account in the State Treasury, except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(d) Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from investment of the funds specified in subdivision (a) pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code shall be deposited in the subaccount for site operation and maintenance.

SEC. 6. Section 25345 of the Health and Safety Code is amended to read:

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

the waste and material specified in Section 25342 in accordance with the following formula:

$$\text{Base tax rate} = \frac{(\$10{,}000{,}000 - M)}{(0.15W_1 + W_2 + 2W_3 + 0.01W_4)}$$

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.

(F) Any funds in the state account subject to the rebate specified in Section 25347.2.

(G) Any interest accruing from funds deposited in the subaccount for site operation and maintenance established by Section 25330.5.

(H) Any funds received from responsible parties for remedial and removal action, except to the extent those funds are necessary for reimbursement of funds previously expended from the state account.

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

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

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

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

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

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

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

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

where:

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

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

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

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

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

(d) On or before May 1 of each year, the board shall send to each person subject to Section 25342 a notice of assessment.

(e) On or before July 1 of each year, each person subject to Section 25342 shall pay to the board the amount of the assessment as stated in the notice. The tax under this chapter shall not be imposed again on hazardous waste or extremely hazardous waste if the waste, or any portion thereof, is removed subsequently to another place for disposal and if the person has paid the amount of assessment for the waste in accordance with this section before the removal thereof.

(f) Notwithstanding any other provision of this section, hazardous wastes disposed of into an injection well during the 1981 calendar year shall be subject to a tax rate that does not exceed 26.4 percent of the base tax rate, as determined in subdivision (a), per ton or fraction thereof.

(g) For purposes of this article, the following definitions apply:

(1) "Injection well" means a bored, drilled or driven shaft, whose depth is greater than the largest surface dimension, and which is used to inject hazardous waste into an underground formation. Injection well does not mean any well located in class I or a class II-I disposal site, as defined in Sections 2510 and 2511 of Title 23 of the California Administrative Code, on September 25, 1981.

(2) "Formation" means a body of rock characterized by a degree of lithologic homogenity which is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface.

(3) "Landfarm" means a waste management technique, conducted within a hazardous waste facility which has received a hazardous waste facilities permit or has obtained interim status pursuant to Article 9 (commencing with Section 25200) of Chapter 6.5 of Division 20, or pursuant to Section 6925 of Title 42 of the United States Code. This waste management technique consists of applying oily wastes, biodegradable wastes, or both wastes onto land and incorporating them into the surface of the soil and, by controlling critical parameters of alkalinity and acidity, moisture content, and soil texture, enhancing the aerobic biodegradation of the waste into carbon dioxide, water, and humus. Landfarming is a managed process which changes the physical, chemical, or biological composition of hydrocarbon wastes, and it does not include any other land disposal practices, including, but not limited to, landfilling or codisposal.

SEC. 7. Section 25351 of the Health and Safety Code is amended

to read:

25351. (a) Consistent with the requirements of Section 114(c) of the federal act (42 U.S.C. Sec. 9614(c)), moneys in the state account may be expended by the director, upon appropriation by the Legislature, for the following purposes:

(1) The costs and expenses reasonably necessary for, and incidental to, the administration of this chapter by the department.

(2) The state share mandated pursuant to Section 104(c)(3) of the federal act (42 U.S.C. Sec. 9604(c)(3)).

(3) The purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances. However, all equipment shall be purchased in a cost-effective manner after consideration of the adequacy of existing equipment owned by the state or the local agency, and the availability of equipment owned by private contractors.

(4) For payment of all costs of removal and remedial action incurred by the state, or by any local agency with the approval of the director, in response to a release or threatened release of a hazardous substance to the extent the costs are not reimbursed by the federal act.

(5) For payment of all costs of actions taken pursuant to subdivision (b) of Section 25358.3, to the extent that these costs are not paid by the federal act.

(6) All costs incurred in cooperation with the Agency for Toxic Substances and Disease Registry established pursuant to Section 104(i) of the federal act (42 U.S.C. Sec. 9604(i)) and all costs of health effects studies undertaken regarding specific sites or specific substances at specific sites. Funds appropriated for this purpose shall not exceed five hundred thousand dollars ($500,000) in any single fiscal year. However, such actions shall not duplicate reasonably available federal actions and studies.

(b) The director shall expend federal funds in the state account consistent with the requirements specified in Section 9614 of Title 42 of the United States Code, upon appropriation by the Legislature, for the purposes for which they were provided to the state.

SEC. 8. Section 25351 5 is added to the Health and Safety Code, to read:

25351.5. The department shall adopt any regulations necessary to carry out its responsibilities pursuant to this chapter, including, but not limited to, regulations governing the expenditure of, and accounting procedures for, moneys allocated to state, regional, and local agencies pursuant to this chapter.

SEC. 9. Section 25352 of the Health and Safety Code is amended to read:

25352. Money deposited in the state account may also be appropriated by the Legislature to the department on a specific site basis for the following purposes:

(a) For all costs incurred in restoring, rehabilitating, replacing, or

acquiring the equivalent of, any natural resource injured, degraded, destroyed, or lost as a result of any release of a hazardous substance, to the extent the costs are not reimbursed pursuant to the federal act and taking into account processes of natural rehabilitation, restoration, and replacement.

(b) For all costs incurred in assessing short-term and long-term injury to, degradation or destruction of, or any loss of any natural resource resulting from a release of a hazardous substance, to the extent that the costs are not reimbursed pursuant to the federal act. No costs may be incurred for any release of a hazardous substance from any facility or project pursuant to subdivision (a) or this subdivision for injury, degradation, destruction, or loss of any natural resource where the injury, degradation, destruction, or loss was specifically identified as an irreversible and irretrievable commitment of natural resources in an environmental impact statement prepared under the authority of the National Environmental Policy Act (42 U.S.C. Sec. 4341 et seq.), or was identified as a significant environmental effect to the natural resources which cannot be avoided in an environmental impact report prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), and a decision to grant a permit, license, or similar authorization for any facility or project is based upon a consideration of the significant environmental effects to the natural resources, and the facility or project was otherwise operating within the terms of its permit, license, or similar authorization at the time of release.

(c) Notwithstanding Section 25355, the Governor, or the authorized representative of the state, shall act on behalf of the public as trustee of the natural resources to recover costs expended pursuant to subdivision (a) or (b).

SEC. 10. Section 25354 of the Health and Safety Code is amended to read:

25354. (a) There is hereby continuously appropriated from the state account to the department the sum of one million dollars ($1,000,000) for each fiscal year as a reserve account for emergencies, notwithstanding Section 13340 of the Government Code. The department shall expend moneys available in the reserve account only for the purpose of taking immediate corrective action necessary to remedy or prevent an emergency resulting from a fire or an explosion of, or human exposure to, hazardous substances caused by the release or threatened release of a hazardous substance.

(b) Notwithstanding any other provision of law, the department may enter into written contracts for corrective action taken or to be taken pursuant to subdivision (a), and may enter into oral contracts, not to exceed two thousand dollars ($2,000) in obligation, when, in the judgment of the department, immediate corrective action is necessary to remedy or prevent an emergency specified in subdivision (a). The contracts, whether written or oral, may include provisions for the rental of tools or equipment, either with or without

operators furnished, and for the furnishing of labor and materials necessary to accomplish the work.

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

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

(e) Except as provided in subdivision (d), in no event shall the amount deposited in the reserve account and appropriated pursuant to this section exceed one million dollars ($1,000,000) in any fiscal year. On June 30 of each year, the unencumbered balance of the reserve account shall revert to and be deposited in the state account.

SEC. 11. Section 25355 of the Health and Safety Code is amended to read:

25355. (a) The Governor shall be responsible for the coordination of all state response actions for sites identified in Section 25356 in order to assure the maximum use of available federal funds.

(b) The director may initiate removal or remedial action pursuant to this chapter unless these actions have been taken, or are being taken properly and in a timely fashion, by any responsible party.

(c) At least 30 days before initiating removal or remedial actions, the department shall make a reasonable effort to notify the persons identified by the department as potentially responsible parties and shall also publish a notification of this action in a newspaper of general circulation pursuant to the method specified in Section 6061 of the Government Code. The requirements of this subdivision do not apply to actions taken pursuant to subdivision (b) of Section 25358.3 or immediate corrective actions taken pursuant to Section 25354. A responsible party may be held liable pursuant to this chapter whether or not the person was given the notice specified in this subdivision.

SEC. 12. Section 25358.1 is added to the Health and Safety Code, to read:

25358.1. (a) Any person who stores, treats, or disposes of hazardous substances, shall, upon the request of any officer or employee of the department, or representative of the director, or person designated by the director, furnish information relating to those substances and permit the officer, employee, representative, or designee at all reasonable times to have access to and to copy all records relating to the substances for purposes of assisting the department in determining the need for a response pursuant to this chapter to a release or threatened release, or for enforcing the provisions of this chapter. Any person who produces, transports, or

otherwise handles hazardous substances shall also provide that information and permit that access when it is necessary to ascertain facts not available at the facility where the hazardous substances are located. The officers, employees, representatives, or designees may take all of the following actions in carrying out this section:

(1) Enter at reasonable times any establishment or other place where hazardous substances are or have been produced, stored, treated, or disposed of, or transported from.

(2) Inspect and obtain samples of any substances, samples of any containers or labeling for the substances, and samples of the soil, vegetation, air, water, and biota on the premises.

(3) Set up and maintain monitoring equipment for the purpose of assessing or measuring the actual or potential migration of hazardous substances.

(4) Survey and determine the topographic, geologic, and hydrogeologic features of the land.

(5) Photograph any equipment, sample, activity, or environmental condition described in paragraphs (2), (3), and (4).

(b) (1) If photographs are to be taken pursuant to paragraph (5) of subdivision (a), the department shall do all of the following:

(A) Comply with all procedures established pursuant to subdivision (b) of Section 25358.2.

(B) Notify the person whose facility is photographed prior to public disclosure of the photographs.

(C) Upon request of the person owning the facility, submit a copy of any photograph to the person for the purpose of determining whether trade secret information, as defined in Section 25358.2, or facility security, would be revealed by the photograph.

(2) "Public disclosure," as used in this paragraph, does not mean the review of the photograph by a court of competent jurisdiction or by an administrative law judge. A court or judge may review the photograph in camera.

(c) For purposes of taking removal or remedial action in response to an actual or threatened release under this chapter, any authorized representative of the department may, at any reasonable time, enter any establishment or place where a hazardous substance is or has been generated, treated, stored, handled, disposed of, or transported from.

(d) An officer, employee, representative, or designee who enters a place or establishment pursuant to this section shall make a reasonable effort to inform the owner or the owners' authorized representative of the inspection and shall provide split samples to the owner or the representative upon request.

(e) The department, and any person authorized by the department to enter upon any lands for the purpose of taking removal or remedial action pursuant to this chapter, shall not be held liable, in either a civil or criminal proceeding, for trespass or for any other acts which are necessary to carry out the corrective action.

SEC. 13. Section 25358.2 is added to the Health and Safety Code,

to read:

25358.2. (a) "Trade secrets," as used in this section, may include, but are not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce develop, or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(b) The department may disclose trade secrets received by the department pursuant to this chapter to authorized representatives, contractors, or other governmental agencies only in connection with the department's responsibilities pursuant to this chapter The department shall establish procedures to ensure that these trade secrets are utilized only in connection with these responsibilities and are not otherwise disseminated without the consent of the person who provided the information to the department.

(c) The department may also make available to the Environmental Protection Agency any and all information required by law to be furnished to that agency. The sharing of information between the department and that agency pursuant to this section does not constitute a waiver by the department or any affected person of any privilege or confidentiality provided by law which pertains to the information.

(d) Any person providing information pursuant to subdivision (a) of Section 25358.1 shall, at the time of its submission, identify all information which the person believes is a trade secret. Any information or record not identified as a trade secret is available to the public, unless exempted from disclosure by other provisions of law.

(e) Any person who knowingly and willfully disseminates information protected by this section or procedures established by the department pursuant to subdivision (b) shall, upon conviction, be punished by a fine of not more than five thousand dollars ($5,000), imprisonment in the county jail not to exceed one year, or by both that fine and imprisonment.

SEC. 14. Section 25358.3 is added to the Health and Safety Code, to read:

25358.3. (a) Whenever the director determines that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, because of a release or a threatened release of a hazardous substance, the director may do any or all of the following:

(1) Order any responsible party or parties to take appropriate removal or remedial action necessary to protect the public health and safety and the environment. No order under this section shall be made to an owner of real property solely on the basis of that ownership.

(2) Take or contract for any necessary removal or remedial action.

(3) Request the Attorney General to secure relief that may be necessary to abate the danger or threat. The superior court of the county in which the threat or danger occurs shall have jurisdiction to grant the relief which the public interest and equities of the case may require.

(b) When the director determines that a release of a hazardous substance has occurred or is about to occur, the director may do any or all of the following:

(1) Undertake those investigations, monitoring, surveys, testing, and other information gathering necessary to identify the existence, source, nature, and extent of the hazardous substances involved and the extent of danger to the public health or environment.

(2) Undertake those planning, legal, fiscal, economic, engineering, architectural, and other studies or investigations which are necessary or appropriate to plan and direct response actions, to recover the cost of those actions, and to enforce this chapter.

(c) Whenever there is a release or threatened release of a hazardous substance into the environment, the director may take or contract for any necessary removal or remedial action and may take or contract for any actions authorized by subdivision (b), in compliance with the provisions of this chapter, including, but not limited to, subdivision (b) of Section 25355.

SEC. 15. Section 25358.5 is added to the Health and Safety Code, to read:

25358.5. Any removal or remedial action taken or contracted by the department pursuant to Section 25354 or subdivision (a) of Section 25358.3 shall be exempt from the following provisions:

(a) State Contract Act (Chapter 3 (commencing with Section 14250) of Part 5 of Division 3 of Title 2 of the Government Code).

(b) Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(c) Section 14780 of the Government Code and Article 4 (commencing with Section 14830) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code.

(d) Article 5 (commencing with Section 14831) of Chapter 6 of Part 5.5 of Division 3 of Title 2 of the Government Code.

SEC. 16. Section 25358.6 is added to the Health and Safety Code, to read:

25358.6. (a) The department may prequalify bidders for remedial or removal actions taken pursuant to Section 25354 or subdivision (a) of Section 25358.3. The department may reject the bid of any prospective bidder that has not been prequalified.

(b) To prequalify bidders, the department shall adopt and apply a uniform system of rating bidders. In order to obtain information for such rating, the department may require from prospective bidders answers to questions, including, but not limited to, questions about the bidder's financial ability, the bidder's experience in removal and remedial action involving hazardous substances, the bidder's past

safety record, and the bidder's past performance on federal, state, or local government projects. The department may also require prospective bidders to submit financial statements.

(c) The department shall utilize the business financial data and information submitted by a bidder pursuant to subdivision (b) only for the purposes of prequalifying bidders pursuant to this section and shall not otherwise disseminate this data or information.

(d) The system of rating bidders may be adopted by the department as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for purposes of that chapter, when these regulations are adopted as emergency regulations pursuant to Section 11349.6 of the Government Code, the regulations shall be deemed to be necessary for the immediate preservation of the public peace, health and safety, and general welfare. It is the intent of the Legislature that emergency regulations adopted pursuant to this subdivision shall remain in effect until the regulations are adopted as final regulations, pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 17. Section 25358.7 is added to the Health and Safety Code, to read:

25358.7. (a) The department shall provide any person affected by a removal or remedial action taken pursuant to this chapter with the opportunity to participate in the department's decisionmaking process regarding that action by taking all of the following actions:

(1) Provide that person with access to information which the department is required to release pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code), relating to the action, except for the following:

(A) Trade secrets, as defined in subdivision (a) of Section 25358.2.

(B) Business financial data and information, as specified in subdivision (c) of Section 25358.6.

(C) Information which the department is prohibited from releasing pursuant to any state or federal law.

(2) Provide the person notification, upon request, of any public meetings held by the department concerning the action.

(3) Provide the person the opportunity to attend and to participate at those public meetings.

(b) The department shall develop and make available to the public a schedule of activities for each site for which remedial action is expected to be taken by the department pursuant to this chapter and shall make available to the public any plan provided to the department by any responsible party, unless the department is prohibited from releasing the information pursuant to any state or federal law.

(c) In making decisions regarding the methods to be used for removal or remedial actions taken pursuant to this chapter, the

department shall incorporate or respond to the advice of persons affected by the actions.

(d) This section does not apply to emergency actions taken pursuant to Section 25354.

SEC. 18. Section 25358.8 is added to the Health and Safety Code, to read:

25358.8. Whenever the department acts pursuant to Section 25358.5 or 25358.6, the department shall submit to the Joint Legislative Budget Committee a report on the action stating the circumstances of the emergency or endangerment, within five days after the department has determined that there is an emergency resulting from a fire or an explosion of, or human exposure to, hazardous substances, as specified in Section 25354, or that there may be an imminent or substantial endangerment to the public health or welfare or to the environment, as specified in subdivision (a) of Section 25358.3.

SEC. 19. Section 25359 is added to the Health and Safety Code, to read:

25359. Any person who is liable for a release, or threat of a release, of hazardous substances and who fails, without sufficient cause, as determined by the court, to properly provide removal or remedial action upon order of the director or the court, pursuant to Section 25358.3, is liable to the department for punitive damages up to three times the amount of any costs incurred by the state account pursuant to this chapter as a result of the failure to take proper action.

SEC. 20. Section 25359.1 is added to the Health and Safety Code, to read:

25359.1. There shall be no recovery of punitive damages under Section 25359 for an injury to or loss of natural resources which occurred wholly before September 25, 1981. This section shall not be construed as precluding the recovery of punitive damages for injury to or loss of natural resources in an action brought pursuant to any other provision of law.

SEC. 21. Section 25367 is added to the Health and Safety Code, to read:

25367. Any person who commits any of the following acts shall be liable for a civil penalty not to exceed twenty-five thousand dollars ($25,000) for each separate violation, or for continuing violations, for each day during which that violation continues:

(a) Intentionally makes any false statement or representation in any report or information furnished pursuant to subdivision (a) of Section 25358.1.

(b) Intentionally fails to provide any information requested pursuant to subdivision (a) of Section 25358.1.

(c) Refuses or prevents any activity authorized pursuant to subdivision (a) of Section 25358.1 or Section 25358.3.

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 and that this act will also create a new crime or infraction.

SEC. 23. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the need to quickly and effectively utilize the moneys in the Hazardous Waste Substance Account to clean up hazardous waste sites and protect the public's health and safety, it is necessary that this act go into effect immediately.

CHAPTER 1045

An act to add Sections 13173 and 13174 to the Water Code, relating to water quality.

[Approved by Governor September 23, 1983. Filed with Secretary of State September 23, 1983.]

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

SECTION 1. Section 13173 is added to the Water Code, to read:

13173. (a) Except as provided in Section 13174, each person storing hazardous substances in concrete sumps, nonvaulted buried tanks, or other underground containers shall file with the state board, on a form provided by the state board, a hazardous substance storage statement not later than July 1, 1984, except that civil liability for failure to file the statement by that date shall not arise until January 1, 1985, as specified in subdivision (e).

(b) As used in this section, "hazardous substance" means any substance listed pursuant to Section 6382 of the Labor Code or any substance designated pursuant to Section 25316 of the Health and Safety Code.

(c) Each hazardous substance storage statement shall include all of the following information:

(1) The name and address of the person or firm owning the container described in subdivision (a).

(2) The address and location of the container, including the city and county.

(3) The name and 24-hour phone number of the contact person in the event of an emergency involving the container.

(4) If known, a description of the container, including type of

construction, name of manufacturer, and age, if available.

(5) A list of all of the hazardous substances stored in each container and the capacity of the container.

(6) A description of any method used to determine if the container leaks.

(d) Each statement shall be accompanied by a fee of ten dollars ($10) per container, except that statements submitted for underground tanks located at retail motor vehicle fuel outlets shall be accompanied by five dollars ($5) per container, which shall be deposited in the Underground Container Inventory Account in the General Fund, which account is hereby created, for use by the state board in administering this section.

(e) Any person who fails to submit the hazardous substance storage statement and the fee per container to the state board by January 1, 1985, shall be liable civilly in an amount of not less than five hundred dollars ($500) and not more than five thousand dollars ($5,000) per day for each day the statement has not been received. Any person who submits false information to the state board shall be liable civilly in an amount of not less than two thousand dollars ($2,000) and not more than twenty thousand dollars ($20,000) per day for each day the false information goes uncorrected.

(f) The state board shall compile the hazardous substance storage statements by each city and county within which the container is located. These compilations shall be transmitted to the appropriate regional boards, cities, and counties not later than January 1, 1985.

SEC. 2. Section 13174 is added to the Water Code, to read:

13174. From January 1, 1984, to July 1, 1984, Section 13173 shall not apply to underground farm storage tanks storing fuel. The state board shall obtain essential information on underground farm storage tanks from farmers by working cooperatively with fuel distributors, county extension offices, county agricultural commissioners, tax assessors, and other governmental agencies. The addresses and information obtained under this section shall be confidential and may be disclosed by the state board only when required by other governmental agencies exercising their authority with respect to underground storage tanks and for official proceedings of the state board or other governmental agencies.

On July 1, 1984, the state board and regional boards may apply Section 13173 to underground farm storage tanks, except that the statement prescribed in Section 13173 shall not be required to be filed with the state board prior to October 1, 1984, and no civil liability for failure to file the statement shall arise before January 1, 1985.

CHAPTER 1046

An act to add Section 25150.1 to, and to add Chapter 6.7 (commencing with Section 25280) to Division 20 of, the Health and Safety Code, relating to hazardous substances.

[Approved by Governor September 23, 1983 Filed with Secretary of State September 23, 1983]

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

SECTION 1. (a) The Legislature finds and declares as follows:

(1) Substances hazardous to the public health and safety, and to the environment, are stored prior to use or disposal in thousands of underground locations in the state.

(2) Underground tanks used for the storage of hazardous substances and wastes are potential sources of contamination of the ground and underlying aquifers, and may pose other dangers to public health and the environment.

(3) In several known cases, underground storage has resulted in undetected and uncontrolled releases of hazardous substances into the ground. These releases have contaminated public drinking water supplies and created a potential threat to the public health and to the waters of the state.

(4) The Legislature has previously enacted laws regulating the management of hazardous wastes, including statutes providing the means to clean up releases of hazardous substances into the environment when the public health, domestic livestock, wildlife and the environment are endangered. Current laws do not specifically govern the construction, maintenance, testing and use of underground tanks used for the storage of hazardous substances, or the short-term storage of hazardous wastes prior to disposal, for the purposes of protecting the public health and the environment.

(5) The protection of the public from releases of hazardous substances is an issue of statewide concern.

(b) The Legislature therefore declares that it is in the public interest to establish a continuing program for the purpose of preventing contamination from, and improper storage of, hazardous substances stored underground. It is the intent of the Legislature, in enacting this act, to establish orderly procedures that will ensure that newly constructed underground storage tanks meet appropriate standards and that existing tanks be properly maintained, inspected, and tested so that the health, property, and resources of the people of the state will be protected.

SEC. 2. Section 25150.1 is added to the Health and Safety Code, to read:

25150.1. The requirements in Sections 25284 and 25284.1 apply to the construction, operation, maintenance, monitoring, and testing of underground storage tanks, as defined in subdivision (m) of Section

25280, which are required to obtain hazardous waste facilities permits from the department. The department shall adopt regulations implementing the requirements of Sections 25284 and 25284.1, for regulating the construction, operation, maintenance, monitoring, and testing of underground storage tanks used for the storage of hazardous wastes which standards and regulations are necessary to protect against hazards to the public health, to domestic livestock, to wildlife, or to the environment. The regulations department shall adopt the regulations by January 1, 1985. If the regulations are not adopted by that date, the regulations adopted by the board implementing Section 25284.1 shall be deemed to be the regulations of the department pursuant to this section until new regulations are adopted by the department pursuant to this section.

SEC. 3. Chapter 6.7 (commencing with Section 25280) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.7. UNDERGROUND STORAGE OF HAZARDOUS SUBSTANCES

25280. For purposes of this chapter, the following definitions apply:

(a) "Department" means the State Department of Health Services.

(b) "Facility" means any one, or combination of, underground storage tanks used by a single business entity at a single location or site.

(c) "Hazardous substance" means all of the following liquid and solid substances, unless the department, in consultation with the State Water Resources Control Board, determines the substance could not adversely affect the quality of the waters of the state:

(1) Substances on the list prepared by the Director of the Department of Industrial Relations pursuant to Section 6382 of the Labor Code.

(2) Hazardous substances, as defined in Section 25316.

(3) Any substance or material which is classified by the National Fire Protection Association (NFPA) as a flammable liquid, a class II combustible liquid, or a class III-A combustible liquid.

(d) "Local agency" means the department, office, or other agency of a county or city designated pursuant to Section 25282.

(e) "Person" means an individual, trust, firm, joint stock company, corporation, including a government corporation, partnership, and association. "Person" also includes any city, county, district, the state, or any department or agency thereof.

(f) "Board" means the State Water Resources Control Board.

(g) "Primary containment" means the first level of containment, such as the portion of a tank which comes into immediate contact on its inner surface with the hazardous substance being contained.

(h) "Product-tight" means impervious to the substance which is contained, or is to be contained, so as to prevent the seepage of the

substance from the primary containment. To be product-tight, the tank shall not be subject to physical or chemical deterioration by the substance which it contains over the useful life of the tank.

(i) "Secondary containment" means the level of containment external to, and separate from, the primary containment.

(j) "Single-walled" means construction with walls made of only one thickness of material. For the purpose of this chapter, laminated, coated, or clad materials shall be considered single-walled.

(k) "Storage" or "store" means the containment, handling or treatment of hazardous substances either on a temporary basis or for a period of years. "Storage" or "store" does not mean the storage of hazardous wastes in an underground storage tank if the person operating the tank has been issued a hazardous waste facilities permit by the department pursuant to Section 25200 or granted interim status under Section 25200.5.

(*l*) "Unauthorized release" means any release or emission of any hazardous substance which does not conform to the provisions of this chapter, unless this release is authorized by the State Water Resources Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(m) "Underground storage tank" means any one or combination of tanks, including pipes connected thereto, which is used for the storage of hazardous substances and which is substantially or totally beneath the surface of the ground. "Underground storage tank" does not include any of the following:

(1) A tank used for the storage of hazardous substances used for the control of external parasites of cattle and subject to the supervision of the county agricultural commissioner if the county agricultural commissioner determines, by inspection prior to use, that the tank provides a level of protection equivalent to that required by Section 25284, if the tank was installed after June 30, 1984, or protection equivalent to that provided by Section 25284.1, if the tank was installed on or before June 30, 1984.

(2) Tanks which are located on a farm and store motor vehicle fuel which is used only to propel vehicles used primarily for agricultural purposes.

(3) Tanks used for aviation or motor vehicle fuel located within one mile of a farm and the tank is used by a licensed pest control operator, as defined in Section 11705 of the Food and Agricultural Code, who is primarily involved in agricultural pest control activities.

(4) Structures such as sumps, separators, storm drains, catch basins, oil field gathering lines, refinery pipelines, lagoons, evaporation ponds, well cellars, separation sumps, lined and unlined pits, sumps and lagoons. Sumps which are a part of a monitoring system required under Section 25284 or Section 25284.1 are not exempted by this section. These structures may be regulated by the board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) to ensure that they do not pose a threat to water quality. The board shall

conduct a study which analyzes the necessity of applying the standards of Section 25284 and 25284.1 to the structures exempted by this section. The board shall complete the study by January 1, 1985. After completing the study the board shall review existing regulatory authority over such structures.

(n) "Special inspectors" means a professional engineer, registered pursuant to Chapter 7 (commencing with Section 6700) of Division 3 of the Business and Professions Code, who is qualified to attest, at a minimum, to structural soundness, seismic safety, the compatibility of construction materials with contents, cathodic protection, and the mechanical compatibility of the structural elements.

(o) "Owner" means the owner of an underground storage tank.

(p) "Operator" means the operator of an underground storage tank.

(q) "Pipe" means any pipeline or system of pipelines which is used in connection with the storage of hazardous substances and which are not intended to transport hazardous substances in interstate or intrastate commerce or to transfer hazardous materials in bulk to or from a marine vessel.

25281. (a) The department shall compile a comprehensive master list of hazardous substances. The master list shall be made available to the public and mailed to each local agency no later than June 30, 1984, notwithstanding any other provision of law, including Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Local agencies and owners or operators of underground storage tanks shall use the master list or, when adopted, the revised list adopted pursuant to subdivision (b), to determine which underground storage tanks require permits pursuant to this chapter. Hazardous substances included on the list may be denominated by scientific, common, trade, or brand names

(b) The department may revise, when appropriate, the master list of all the hazardous substances specified in subdivision (a). The revised list of hazardous substances shall be prepared and adopted, and may be further revised, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

25282. Every county shall implement this chapter pursuant to the regulations adopted by the board. A city may, by ordinance, assume responsibility for the implementation of this chapter pursuant to the regulations adopted by the board and, if so, shall have exclusive jurisdiction within the boundary of the city for the purposes of carrying out this chapter. A city which assumes responsibility for implementation of this chapter shall provide notice of its program and consult with the county in which the city is located. A county shall designate a department, office, or other agency of that county as the local agency responsible for administering and enforcing the provisions of this chapter and a city which assumes responsibility for implementing this chapter shall also make a similar designation.

25283. (a) Except as provided in subdivision (b), no person shall own or operate an underground storage tank unless a permit for its operation has been issued by the local agency to the owner. Each local agency shall prepare a form which provides for the acceptance of the obligations of a transferred permit by any person who is to assume the ownership of an underground storage tank from the previous owner and is to be transferred the permit to operate the tank. That person shall complete the form accepting the obligations of the permit and submit the completed form to the local agency at least 30 days after the ownership of the underground storage tank is to be transferred. A local agency may review and modify, or terminate, the transfer of the permit to operate the underground storage tank, pursuant to the criteria specified in subdivision (c) of Section 25284.1, upon receiving the completed form.

(b) Any person assuming ownership of an underground storage tank used for the storage of hazardous substances for which a valid operating permit has been issued shall have 30 days after the date of assumption of ownership to apply for an operating permit pursuant to Section 25283.2 or, if accepting a transferred permit, shall submit to the local agency the completed form accepting the obligations of the transferred permit, as specified in subdivision (a). During the period from the date of application until the permit is issued or refused, the person shall not be held to be in violation of this section.

(c) When, in its judgment, it is appropriate to do so, the local agency may issue a single permit to a person for a facility.

25283.1. A permit to operate issued by the local agency pursuant to Section 25283 shall be effective for five years. A local agency shall not issue or renew a permit to operate an underground storage tank if the local agency inspects the tank and determines that the tank does not comply with this chapter.

25283.2. (a) An application for a permit to operate an underground storage tank, or for renewal of the permit, shall be made, by the owner, on a standardized form prepared by the board and provided by the local agency and shall be accompanied by the appropriate fee, as specified in Section 25283.3. The local agency shall provide the board with a copy of the completed application.

(b) The board shall store this information on a computer, for the purpose of managing and appropriately cross-referencing and indexing this data. The application form shall include, but not be limited to, requests for the following information:

(1) A description of the construction of the underground storage tank or tanks.

(2) A list of all the hazardous substances which are or will be stored in the underground storage tank or tanks, specifying the hazardous substances for each underground storage tank.

(3) A description of the monitoring program for the underground storage tank or tanks.

(4) The name and address of the person, firm, or corporation which owns the underground storage tank or tanks and, if different,

the name and address of the person who operates the underground storage tank or tanks.

(5) The address of the facility at which the underground storage tank or tanks are located.

(6) The name of the person making the application.

(7) The name and 24-hour phone number of the contact person in the event of an emergency involving the facility.

(8) If the owner or operator of the underground storage tank is a public agency, the application shall include the name of the supervisor of the division, section, or office which operates the tank.

(c) As a condition of any permit to operate an underground storage tank, the permittee shall complete an annual report form, prepared by the board, which will detail any changes in the usage of any underground storage tanks, including the storage of new hazardous substances, changes in monitoring procedure and unauthorized release occurrences, as defined in Sections 25284.3 and 25284.4. The requirements for computer storage and management of the data generated by the application forms specified in subdivision (b) also apply to information generated by the annual reports.

(d) If a permittee stores in an underground storage tank or tanks a hazardous substance which is not listed in the application, as required by paragraph (2) of subdivision (b), the permittee shall apply for a new or amended permit within 30 days after commencing the storage of that hazardous substance.

25283.3. (a) A fee shall be paid to the local agency by each person who submits an application for a permit to operate an underground storage tank or to renew or amend a permit. The governing body of the county, or a city which assumes enforcement jurisdiction, shall establish the amount of the fees at a level sufficient to pay the necessary and reasonable costs incurred in administering this chapter, including, but not limited to, permitting and inspection responsibilities. The governing body may provide for the waiver of fees when a public agency makes an application for a permit to operate or an application to renew a permit.

(b) This fee shall include a surcharge, the amount of which shall be determined by the Legislature annually to cover the costs of the board in carrying out its responsibilities under this chapter. The surcharge shall be transmitted to the board and deposited in the Underground Storage Tank Fund hereby created in the General Fund. The money in this account is available, upon appropriation by the Legislature, to the board for the purposes of implementing this chapter.

(c) From January 1, 1984 to June 30, 1984 there shall be a one-time surcharge of five dollars ($5) on each tank permitted pursuant to this chapter, which surcharge shall be forwarded to the board, by the local agency, to cover the costs of developing the statewide regulations implementing this chapter, and shall be deposited in the Underground Storage Tank Fund.

25283.4. (a) The local agency shall inspect every underground

storage tank within its jurisdiction at least once every three years. The purpose of the inspection is to determine whether the tank complies with the design and construction standards of Section 25284 or 25284.1, whichever is applicable, whether the operator has monitored and tested the tank as required by the permit, and whether the tank is in a safe operating condition. After an inspection, the local agency shall prepare a compliance report detailing the inspection and shall send a copy of this report to the permitholder.

(b) In addition to, or instead of, the inspections specified in subdivision (a), the local agency may require the permitholder to employ, periodically, special inspectors to conduct an audit or assessment of the permitholder's facility to determine whether the facility complies with the factors specified in subdivision (a) and to prepare a special inspection report with recommendations concerning the safe storage of hazardous materials at the facility. The report shall contain recommendations consistent with the provisions of this chapter, where appropriate. A copy of the report shall be filed with the local agency at the same time the inspector submits the report to the permitholder. Within 30 days after receiving this report, the permitholder shall file with the local agency a plan to implement all recommendations contained in the report or shall demonstrate, to the satisfaction of the local agency, why these recommendations should not be implemented.

25283.5. In order to carry out the purposes of this chapter, any duly authorized representative of the local agency or the board has the authority specified in Section 25185, with respect to any place where underground storage tanks are located, and in Section 25185.5, with respect to real property which is within 2,000 feet of any place where underground storage tanks are located.

25283.6. (a) "Trade secrets," as used in this chapter, may include, but is not limited to, any formula, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate, produce, or compound an article of trade or a service having commercial value, and which gives its user an opportunity to obtain a business advantage over competitors who do not know or use it.

(b) The board or a local agency may disclose trade secrets received by the board or the local agency pursuant to this chapter to authorized representatives or other governmental agencies only in connection with the board's or local agency's responsibilities pursuant to this chapter. The board and the local agency shall establish procedures to ensure that these trade secrets are utilized only in connection with these responsibilities and are not otherwise disseminated without the consent of the person who provided the information to the board or the local agency.

(c) Any person providing information pursuant to Section 25283.2 shall, at the time of its submission, identify all information which the

person believes is a trade secret. Any information or record not identified as a trade secret is available to the public, unless exempted from disclosure by other provisions of law.

(d) Where the local agency, by ordinance, provides an alternative to the listing of a substance which is a trade secret, the person storing that substance shall provide the identification of the material directly to the board pursuant to this section.

25284. Every underground storage tank installed after January 1, 1984, shall meet the following requirements.

(a) Be designed and constructed to provide primary and secondary levels of containment of the hazardous substances stored in them in accordance with the following performance standards:

(1) Primary containment shall be product-tight.

(2) Secondary containment shall be constructed to prevent structural weakening as a result of contact with any released hazardous substances, and also shall be capable of storing, for the maximum anticipated period of time necessary for the recovery of any released hazardous substance.

(3) In the case of an installation with one primary container, the secondary containment shall be large enough to contain at least 100 percent of the volume of the primary tank.

(4) In the case of multiple primary tanks, the secondary container shall be large enough to contain 150 percent of the volume of the largest primary tank placed in it, or 10 percent of the aggregate internal volume of all primary tanks, whichever is greater.

(5) If the facility is open to rainfall, then the secondary containment must be able to additionally accommodate the volume of a 24-hour rainfall as determined by a 100-year storm history.

(6) Single-walled containers do not fulfill the requirement of an underground storage tank providing both a primary and a secondary containment.

(7) The design and construction of underground storage tanks for motor vehicle fuels storage need not meet the requirements of paragraphs (1) to (6), inclusive, if the primary containment construction is of glass fibre reinforced plastic, cathodically protected steel, or steel clad with glass fibre reinforced plastic, any such alternative primary containment is installed in conjunction with a system that will intercept and direct a leak from any part of the tank to a monitoring well to detect any release of motor vehicle fuels stored in the tank and which is designed to provide early leak detection, response, and to protect groundwater from releases, and if the monitoring is in accordance with the alternative method identified in paragraph (3) of subdivision (b) of Section 25284.1. Pressurized piping systems connected to underground storage tanks used for the storage of motor vehicle fuels and monitored in accordance with paragraph (3) of subdivision (b) of Section 25284.1 shall also be deemed to meet the requirements of this subdivision.

(b) Be designed and constructed with a monitoring system capable of detecting the entry of the hazardous material stored in the

primary containment into the secondary containment. If water could intrude into the secondary containment, a means of monitoring for water intrusion and for safely removing the water shall also be provided.

(c) When required by the local agency, a means of overfill protection for any primary tank, including an overfill prevention device or an attention-getting higher level alarm, or both. Primary tank filling operations of underground storage tanks containing motor vehicle fuels which are visually monitored and controlled by a facility operator satisfy the requirements of this paragraph.

(d) Different substances that in combination may cause a fire or explosion, or the production of flammable, toxic, or poisonous gas, or the deterioration of a primary or secondary container, shall be separated in both the primary and secondary containment so as to avoid potential intermixing.

(e) If water could enter into the secondary containment by precipitation or infiltration, the facility shall contain a means of removing the water by the owner or operator. This removal system shall also provide for a means of analyzing the removed water for hazardous substance contamination and a means of disposing of the water, if so contaminated, at an authorized disposal facility.

25284.1. For every underground storage tank installed on or before January 1, 1984, and used for the storage of hazardous substances the following actions shall be taken:

(a) On or before January 1, 1985, the owner shall outfit the facility with a monitoring system capable of detecting unauthorized releases of any hazardous substances stored in the facility, and thereafter, the operator shall monitor each facility, based on materials stored and the type of monitoring installed.

(b) Provide a means for visual inspection of the tank, wherever practical, for the purpose of the monitoring required by subdivision (a). Alternative methods of monitoring the tank on a monthly, or more frequent basis, may be required by the local agency, consistent with the regulations of the board.

The alternative monitoring methods include, but are not limited to, the following methods:

(1) Pressure testing, vacuum testing or hydrostatic testing of the piping systems or underground storage tanks.

(2) A groundwater monitoring well or wells which are down gradient and adjacent to the underground storage tank, vapor analysis within a well where appropriate, and analysis of soil borings at the time of initial installation of the well. The board shall develop regulations specifying monitoring alternatives. The local agency, or any other public agency specified by the local agency, shall approve the location and number of wells, the depth of wells and the sampling frequency, pursuant to these regulations.

(3) For monitoring tanks containing motor vehicle fuels, daily gauging and inventory reconciliation by the operator, if inventory records are kept on file for one year and are reviewed quarterly, the

tank is tested for tightness hydrostatically or, when appropriate with pressure between three and five pounds, inclusive, per square inch at time intervals specified by the board and whenever any pressurized system has a leak detection device to monitor for leaks in the piping. The tank shall also be tested for tightness hydrostatically or where appropriate, with pressure between three and five pounds, inclusive, per square inch whenever there is a shortage greater than the amount which the board shall specify by regulation.

25284.2. The operator of the underground storage facility shall monitor the facility using the method specified on the permit for the facility. Records shall be kept in sufficient detail to enable the local agency to determine that the operator has undertaken all monitoring activities required by the permit to operate.

If the operator is not the owner, the owner shall provide a copy of the permit to the operator, enter into a written contract with the operator which requires the operator to monitor the tank as set forth in the permit, and provide the operator with a copy of Section 25287, or a summary of this section, in the form which the board specifies by regulation. The owner shall notify the local agency of any change of operator.

25284.3. Any unauthorized release from the primary containment which the operator is able to cleanup within eight hours, and which does not escape from the secondary containment, does not increase the hazard of fire or explosion and does not cause any deterioration of the secondary containment of the underground storage tank, shall be recorded on the operator's monitoring reports.

25284.4. (a) Any unauthorized release which escapes from the secondary containment, increases the hazard of fire or explosion, or causes any deterioration of the secondary containment of the underground tank shall be reported by the operator or the local agency within 24 hours after the release has been detected or should have been detected. A full written report shall be transmitted by the owner or operator of the underground storage tanks within five working days of the occurrence of the release.

The local agency shall review the permit whenever there has been an unauthorized release or when it determines that the underground storage tank is unsafe. In determining whether to modify or terminate the permit, the local agency shall consider the age of the tank, the methods of containment, the methods of monitoring, the feasibility of any required repairs, the concentration of the hazardous substances stored in the tank, the severity of potential unauthorized releases, and the suitability of any other long-term measures preventive measures which would meet the requirements of this chapter.

(b) In cooperation with the Office of Emergency Services, the board shall submit an annual statewide report by county, to the Legislature, of all unauthorized releases, indicating for each unauthorized release the operator, the hazardous substance, the

quantity of the unauthorized release, and the actions taken to abate the problem.

(c) The reporting requirements imposed by this section are in addition to any requirements which may be imposed by Section 13271 of the Water Code.

25284.5. If there has been any unauthorized release, as defined in subdivision (a) of Section 25284.4, from an underground storage tank containing motor vehicle fuel not under pressure, the permitholder may repair the tank once by an interior-coating process if the tank meets all of the following requirements:

(a) An ultrasonic test, or comparable test, has been conducted to determine the thickness of the storage tank. If the result of the test indicates that a serious corrosion problem exists with regard to the tank, as determined by the person conducting the test, the local agency may require additional corrosion protection for the tank or may deny the authorization to repair.

(b) A hydrostatic test is an alternative to the ultrasonic test in subdivision (a). If the result of the test indicates that a serious problem exists with regard to the integrity of the tank, as determined by the person conducting the test or the local agency, the local agency may require additional protection for the tank or may deny authorization for the repair.

(c) A vacuum test has been conducted with a result indexed at not more than 5.3 inches of mercury. This requirement shall not be applicable if technology is not available for testing the tank on site using accepted engineering practices.

(d) Following the repair, the standard installation testing for requirements for underground storage tanks specified in Section 2-7.3 of the Flammable and Combustible Liquids Code, adopted by the National Fire Protection Association on November 20, 1981 (NFPA 30-1981), and published in the 1982 edition of the National Fire Code shall be followed.

(e) The material used to repair the tank by an interior-coating process is compatible with the motor vehicle fuel that is stored, as approved by the board by regulation.

(f) The material used to repair the tank by an interior-coating process is applied in accordance with nationally recognized engineering practices such as the American Petroleum Institute's recommended practice No. 1631 for the interior lining of existing underground storage tanks.

(g) The board may develop regulations, in consultation with the State Fire Marshal, for the repair of underground storage tanks, and the standards in this section shall remain in effect until the adoption of these regulations.

25285. The local agency may request the following agencies to utilize that agency's authority to remedy the effects of, and remove, any hazardous substance which has been released from an underground storage tank:

(a) The department which may take action pursuant to Chapter

6.8 (commencing with Section 25300) and, for this purpose, any unauthorized release shall be deemed a release as defined in Section 25320.

(b) A regional water quality control board may take action pursuant to Division 7 (commencing with Section 13000) of the Water Code and, for this purpose, the discharged hazardous substance shall be deemed a waste as defined in subdivision (d) of Section 13050.

25286. (a) No person shall abandon an underground storage tank or close or temporarily cease operating an underground storage tank, except as provided in this section.

(b) An underground storage tank which is temporarily taken out of service, but which the operator intends to return to use, shall continue to be subject to all the permit, inspection, and monitoring requirements of this chapter, unless the operator complies with the provisions of subdivision (c) for the period of time the underground tank is not in use.

(c) No person shall close an underground storage tank unless the person undertakes all of the following actions:

(1) Demonstrates to the local agency that all residual amounts of the hazardous substance or hazardous substances which were stored in the tank prior to its closure have been removed, properly disposed of, and neutralized.

(2) Adequately seals the tank to minimize any threat to the public safety and the possibility of water intrusion into, or runoff from, the tank.

(3) Provides for, and carries out, the maintenance of the tank as the local agency determines is necessary, for the period of time the local agency requires.

(4) Demonstrates to the local agency that there has been no significant soil contamination resulting from a discharge in the area surrounding the underground storage tank or facility.

25287. (a) Any operator of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Operates an underground storage tank which has not been issued a permit.

(2) Fails to monitor the underground storage tank, as required by the permit.

(3) Fails to maintain records, as required by Section 25283.2.

(4) Fails to report an unauthorized release, as required by Sections 25284.3 and 25284.4.

(5) Fails to properly close an underground storage tank, as required by Section 25286.

(b) Any owner of an underground storage tank shall be liable for a civil penalty of not less than five hundred dollars ($500) or more than five thousand dollars ($5,000) per day for any of the following:

(1) Failure to obtain a permit as specified by this chapter

(2) Failure to repair an underground tank in accordance with the provisions of this chapter.

(3) Abandonment or improper closure of any underground tank subject to the provisions of this chapter.

(4) Knowing failure to take reasonable and necessary steps to assure compliance with this chapter by the operator of an underground tank.

(c) Any person who falsifies any monitoring records required by this chapter, or knowingly fails to report an unauthorized release, shall, upon conviction, be punished by a fine of not less than five thousand dollars ($5,000) or more than ten thousand dollars ($10,000), or by imprisonment in the county jail for not to exceed one year, or by both that fine and imprisonment.

(d) In determining both the civil and criminal penalties imposed pursuant to this section, the court shall consider all relevant circumstances, including, but not limited to, the extent of harm or potential harm caused by the violation, the nature of the violation and the period of time over which it occurred, the frequency of past violations, and the corrective action, if any, taken by the person who holds the permit.

(e) Penalties under this section are in addition to, and do not supersede or limit, any and all other legal remedies and penalties, civil or criminal, which may be applicable under other laws.

25288. (a) Any city, county or city and county which prior to January 1, 1984, has adopted an ordinance which, at a minimum meets the requirements set forth in Section 25284 and 25284.1, providing for double containment, monitoring of underground storage tanks and under which permits are issued therefor is exempt from the provisions of this chapter so long as the ordinance, as it may be amended, continues to meet the requirements of Sections 25284 and 25284.1.

Those local agencies which are exempted from this chapter pursuant to this subdivision shall submit to the board the application form and annual information specified by Section 25283.2 and shall submit a written report of any unauthorized release from an underground storage tank to the Office of Emergency Services within 10 working days from the time the local agency is notified of the unauthorized release.

(b) This chapter shall not be construed to limit or abridge the authority of any city, county, or city and county to adopt an ordinance requiring information, conducting investigations, inspections, or implementing and enforcing this chapter.

25288.1. The Legislature hereby finds and declares that the provisions of this chapter are of statewide interest and concern and are intended to preempt any local regulations of underground storage tanks, which regulations are for the protection of the soil from contamination or the protection of the beneficial uses of waters of the state, and which conflict with these provisions, except as provided in Section 25288.

25288.2. (a) The board shall develop regulations implementing the standards of Section 25284, 25284.1, 25284.3, 25284.4, 25284.5, 25286, and 25288.3. These regulations shall be promulgated by the board by January 1, 1985. The board may adopt regulations implementing Sections 25283.2, 25283.3 and 25283.6, as it deems necessary.

(b) Until the board adopts regulations, any city, county, or city and county may implement the provisions of Section 25284 with regard to permits. Any tank or facility so permitted shall be deemed to be in compliance with the regulations of the board implementing that section. Any underground storage tank installed within a city, county or city and county which has not implemented the provisions of Section 25284 prior to the adoption of regulations by the board shall be subject to the same requirements of this chapter as an underground storage tank installed prior to January 1, 1984.

25288.3. (a) Any permitholder or permit applicant may apply to the board for a categorical variance from Section 25824 or 25824.1. The application shall include a description of the proposed alternative program, method, device, or process and description of the region, area, or circumstances under which the variance would apply. The board shall give notice to all affected cities, counties and city and counties. The board shall issue a categorical variance from this chapter if it finds, after investigation and at least two public hearings held in different areas of the state, as selected by the board, that the applicant has demonstrated by clear and convincing evidence that the proposed alternative will adequately protect the soil and the beneficial uses of water of the state from an unauthorized release. The board may remand the application to the appropriate regional board if it determines the application falls within subdivision (c).

(b) After January 1, 1984, any local agency may apply to the board for authority to implement design and construction standards for the containment of a hazardous substance in underground storage tanks which are in addition to those set forth in this chapter. The application shall include a description of the additional standards and a discussion of the need to implement them. The board shall approve the application if it finds, after an investigation and public hearing, that the local agency has demonstrated by clear and convincing evidence that the additional standards are necessary to adequately protect the soil and the beneficial uses of the waters of the state from unauthorized releases.

The board shall make its determination within six months of the date of application for authority to implement additional standards. If the board's determination upholds the application for authority to implement additional standards, the standards shall be effective as of the date of the determination. If the board's determination does not uphold the application, the additional standards shall not go into effect.

(c) Any permitholder or permit applicant may apply to the

regional water quality control board having jurisdiction over the location of the permitholder or applicant's facility for a site-specific variance from Section 25824 or 25824.1. Before applying for a variance, the applicant shall contact the local agency. If the local agency decides that a variance would be necessary to approve a proposal, or if the local agency does not make a decision within 60 days, the permitholder or applicant may proceed with a variance application. At least 30 days before applying to the appropriate regional water quality control board the applicant shall notify and request the local agency and the city, county, or city and county having land use jurisdiction over the city to join the applicant in the variance application. The city, county, or city and county shall provide notice of the receipt of this request to any person who has requested the notice. The local agency shall have 30 days from completion of any documents required by the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) and the receipt of the regional board's staff recommendation and analysis to act on the request. The regional board shall not hold a hearing upon the application until after the expiration of this 30-day period. Failure of the local agency or city, county, or city and county to join in the variance application shall not affect the request of the applicant to proceed with the variance application, except that the board shall consider the local agency's and the city, county, or city and county's recommendations in rendering its decision. The notification and request to join to the local agency and the city, county, or city and county and the appplication to the appropriate regional board shall include a description of the proposed alternative program method or process. The regional water quality control board shall approve the variance if it finds, after investigation and public hearing, that the applicant has demonstrated by clear and convincing evidence that because of special circumstances not generally applicable to other property or facilities, including size, shape, design, topography, location or surroundings, the strict application of the standards of this chapter would be unnecessary to adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release, or that strict application would create practical difficulties not generally applicable to other facilities or property and that the proposed alternative will adequately protect the soil and beneficial uses of the waters of the state from an unauthorized release.

(d) Applicants for action under this section shall pay a fee determined by the state water quality control board to be reasonable in covering costs in considering the application.

25289. This chapter shall not be construed to limit or abridge the powers and duties granted to the State Department of Health Services by Chapter 6.5 (commencing with Section 25100) and by Chapter 6.8 (commencing with Section 25300) or to the State Water Resources Control Board and each regional water quality control board by Division 7 (commencing with Section 13000) of the Water

Code.

SEC. 4. It is the intent of the Legislature that the program created by this act within the State Department of Health Services will be funded both through the department's budget commencing with the 1984–85 fiscal year and through the use of existing financial resources.

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.

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 administering the program or level of service mandated by this act or else it is recognized, 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 1047

An act to add Article 1.5 (commencing with Section 14021) to Chapter 3 of Division 7 of the Food and Agricultural Code, and to add Chapter 3.5 (commencing with Section 39650) to Part 2 of Division 26 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 23, 1983 Filed with Secretary of State September 23, 1983]

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

SECTION 1. Chapter 3.5 (commencing with Section 39650) is added to Part 2 of Division 26 of the Health and Safety Code, to read:

CHAPTER 3.5. TOXIC AIR CONTAMINANTS

Article 1. Findings, Declarations and Intent

39650. The Legislature finds and declares the following:

(a) That public health, safety, and welfare may be endangered by the emission into the ambient air of substances which are determined to be carcinogenic, teratogenic, mutagenic, or otherwise toxic or injurious to humans.

(b) That persons residing in California may be exposed to a multiplicity of toxic air contaminants from numerous sources which may act cumulatively to produce adverse effects, and that this

phenomenon should be taken into account when evaluating the health effects of individual compounds.

(c) That it is the public policy of the state that emissions of toxic air contaminants should be controlled to levels which prevent harm to the public health.

(d) That the identification and regulation of toxic air contaminants should utilize the best available scientific evidence gathered from the public, private industry, the scientific community, and federal, state, and local agencies, and that the scientific research on which decisions related to health effects are based should be reviewed by a scientific review panel and members of the public.

(e) That, while absolute and undisputed scientific evidence may not be available to determine the exact nature and extent of risk from toxic air contaminants, it is necessary to take action to protect public health.

(f) That the state board has adopted regulations regarding the identification and control of toxic air contaminants, but that the statutory authority of the state board, the relationship of its proposed program to the activities of other agencies, and the role of scientific and public review of the regulations should be clarified by the Legislature.

(g) That the Department of Food and Agriculture has jurisdiction over pesticides to protect the public from environmentally harmful pesticides by regulating the registration and uses of pesticides.

(h) That while there is a statewide program to control levels of air contaminants subject to state and national ambient air quality standards, there is no specific statutory framework in this division for the evaluation and control of substances which may be toxic air contaminants.

(i) That the purpose of this chapter is to create a program which specifically addresses the evaluation and control of substances which may be toxic air contaminants and which complements existing authority to establish, achieve, and maintain ambient air quality standards.

(j) That this chapter is limited to toxic air contaminants and nothing in the chapter is to be construed as expanding or limiting the authority of any agency or district concerning pesticides which are not identified as toxic air contaminants.

(k) That a statewide program to control toxic air contaminants is necessary and desirable in order to provide technical and scientific assistance to the districts, to achieve the earliest practicable control of toxic air contaminants, to promote the development and use of advanced control technologies and alternative processes and materials, to identify the toxic air contaminants of concern and determine the priorities of their control, and to minimize inconsistencies in protecting the public health in various areas of the state.

Article 2. Definitions

39655. For purposes of this chapter, "toxic air contaminant" means an air pollutant which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health. Substances which have been identified as hazardous air pollutants pursuant to Section 7412 of Title 42 of the United States Code shall be identified by the state board as toxic air contaminants. Toxic air contaminants which are pesticides shall be regulated in their pesticidal use by the Department of Food and Agriculture pursuant to Article 1.5 (commencing with Section 14021) of Chapter 3 of Division 7 of the Food and Agricultural Code.

39656. For purposes of this chapter, "airborne toxic control measure" means recommended methods, and where appropriate a range of methods, of reducing the emissions of a toxic air contaminant, including, but not limited to, emission limitations, control technologies, the use of operational and maintenance conditions and closed system engineering.

39657. For purposes of this chapter, "pesticide" means any economic poison as defined by Section 12753 of the Food and Agricultural Code.

Article 3. Identification of Toxic Air Contaminants

39660. (a) Upon the request of the state board, the State Department of Health Services, in consultation with and with the participation of the state board, shall evaluate the health effects of and prepare recommendations regarding substances, other than pesticides in their pesticidal use, which may be or are emitted into the ambient air of California which may be determined to be toxic air contaminants.

(b) In conducting this evaluation, the State Department of Health Services shall consider all available scientific data, including, but not limited to, relevant data provided by the state board, the Occupational Safety and Health Division of the Department of Industrial Relations, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations.

(c) The evaluation shall assess the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance.

The evaluation shall also contain an estimate of the levels of exposure which may cause or contribute to adverse health effects and, in the case where there is no threshold of significant adverse health effects, the range of risk to humans resulting from current or anticipated exposure.

(d) The State Department of Health Services shall submit its written evaluation and recommendations to the state board within

90 days after receiving the request of the state board pursuant to subdivision (a). The State Department of Health Services may, however, petition the state board for an extension of the deadline, not to exceed 30 days, setting forth its statement of the reasons which prevent the department from completing its evaluation and recommendations within 90 days. Upon receipt of a request for extension of, or noncompliance with, the deadline contained in this section, the state board shall immediately transmit to the Assembly Committee on Rules and the Senate Committee on Rules, for transmittal to the appropriate standing, select, or joint committee of the Legislature, a statement of reasons for extension of the deadline, along with copies of the department's statement of reasons which prevent it from completing its evaluation and recommendations in a timely manner.

(e) The state board or a district may request, and any person shall provide, information on any substance which is or may be under evaluation and which is manufactured, distributed, emitted, or used by the person of whom the request is made, in order to carry out its responsibilities pursuant to this chapter. To the extent practical, the state board or a district may collect the information in aggregate form or in any other manner designed to protect trade secrets.

Any person providing information pursuant to this subdivision may, at the time of submission, identify a portion of the information submitted to the state board or a district as a trade secret and shall support the claim of a trade secret, upon the written request of the state board or district board. Information supplied which is a trade secret, as specified in Section 6254.7 of the Government Code, and which is so marked at the time of submission, shall not be released to any member of the public. This section shall not be construed to prohibit the exchange of properly designated trade secrets between public agencies when those trade secrets are relevant and necessary to the exercise of their jurisdiction provided that the public agencies exchanging those trade secrets shall preserve the protections afforded that information by this paragraph.

Any information not identified as a trade secret shall be available to the public unless exempted from disclosure by other provisions of law. The fact that information is claimed to be a trade secret is public information. Upon receipt of a request for the release of information which has been claimed to be a trade secret, the state board or district shall immediately notify the person who submitted the information, and shall determine whether or not the information claimed to be a trade secret is to be released to the public. The state board or district board, as the case may be, shall make its determination within 60 days after receiving the request for disclosure, but not before 30 days following the notification of the person who submitted the information. If the state board or district decides to make the information public, it shall provide the person who submitted the information 10 days' notice prior to public disclosure of the information.

(f) The State Department of Health Services and the state board shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of usage of the substance in California, persistence in the atmosphere, and ambient concentrations in the community.

39661. (a) Upon receipt of the evaluation and recommendations prepared pursuant to Section 39660, the state board, in consultation with and with the participation of the State Department of Health Services, shall prepare a report in a form which may serve as the basis for regulatory action regarding a particular substance pursuant to subdivisions (b) and (c) of Section 39662.

The report shall include and be developed in consideration of the evaluation and recommendations of the State Department of Health Services.

(b) The report, together with the scientific data on which the report is based, shall, with the exception of trade secrets, be made available to the public and shall be formally reviewed by the scientific review panel established pursuant to Section 39670. The panel shall review the scientific procedures and methods used to support the data, the data itself, and the conclusions and assessments on which the report is based. Any person may submit any information for consideration by the panel which may, at its discretion, receive oral testimony. The panel shall submit its written findings to the state board within 45 days after receiving the report. The panel may, however, petition the state board for an extension of the deadline, which may not exceed 15 working days.

(c) If the scientific review panel determines that the health effects report is seriously deficient, the report shall be returned to the state board, and the state board, in consultation with and with the participation of the State Department of Health Services, shall prepare revisions to the report which shall be resubmitted, within 30 days following receipt of the panel's determination, to the scientific review panel which shall review the report in conformance with subdivision (b) prior to a formal proposal by the state board pursuant to Section 39662.

39662. (a) Within 10 working days following receipt of the findings of the scientific review panel pursuant to subdivision (c) of Section 39661, the state board shall prepare a hearing notice and a proposed regulation which shall include the proposed determination as to whether a substance is a toxic air contaminant.

(b) After conducting a public hearing pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the state board shall list, by regulation, substances determined to be toxic air contaminants.

(c) If a substance is determined to be a toxic air contaminant, the regulation shall specify a threshold exposure level, if any, below which no significant adverse health effects are anticipated.

(d) In evaluating the nature of the adverse health effect and the

range of risk to humans from exposure to a substance, the state board shall utilize scientific criteria which are protective of public health, consistent with current scientific data.

(e) Any person may petition the state board to review a determination made pursuant to this section. The petition shall specify the additional scientific evidence regarding the health effects of a substance which was not available at the time the original determination was made and any other evidence which would justify a revised determination.

Article 4. Control of Toxic Air Contaminants

39665. (a) Following adoption of the determinations pursuant to Section 39662, the executive officer of the state board shall, with the participation of the districts, and in consultation with affected sources and the interested public, prepare a report on the need and appropriate degree of regulation for each substance which the state board has determined to be a toxic air contaminant.

(b) The report shall address all of the following issues, to the extent data can reasonably be made available:

(1) The rate and extent of present and anticipated future emissions and estimated levels of human exposure.

(2) The stability, persistence, transformation products, dispersion potential, and other physical and chemical characteristics of the substance when present in the ambient air.

(3) The categories, numbers, and relative contribution of present or anticipated sources of the substance, including mobile, industrial, agricultural, and natural sources.

(4) The availability and technological feasibility of airborne toxic control measures to reduce or eliminate emissions, and the anticipated effect of airborne toxic control measures on levels of exposure.

(5) The approximate cost of each airborne toxic control measure and the magnitude of risks posed by the substances as reflected by the amount of emissions from the source or category of sources.

(6) The availability, suitability, and relative efficacy of substitute compounds of a less hazardous nature.

(7) The potential adverse health, safety, or environmental impacts that may occur as a result of implementation of an airborne toxic control measure.

(c) The staff report, and relevant comments received during consultation with the districts, affected sources, and the public, shall be made available for public review and comment at least 45 days prior to the public hearing required by Section 39666.

39666. (a) Following a noticed public hearing, the state board shall adopt airborne toxic control measures to reduce emissions of toxic air contaminants from nonvehicular sources.

(b) For toxic air contaminants for which the state board has determined, pursuant to Section 39662, that there is a threshold

exposure level below which no significant adverse health effects are anticipated, the airborne toxic control measure shall be designed, in consideration of the factors specified in subdivision (b) of Section 39665, to reduce emissions sufficiently so that the source will not result or contribute to ambient levels at or in excess of the threshold exposure.

(c) For toxic air contaminants for which the state board has not specified a threshold exposure level pursuant to Section 39662, the airborne toxic control measure shall be designed, in consideration of the factors specified in subdivision (b) of Section 39665, to reduce emissions to the lowest level achievable through application of best available control technology or a more effective control method, unless the state board or a district board determines, based on an assessment of risk, that an alternative level of emission reduction is adequate or necessary to prevent an endangerment of public health.

(d) Not later than 120 days after the adoption by the state board of an airborne toxic control measure pursuant to this section, the districts shall propose regulations enacting control measures on nonvehicular sources within their jurisdiction which meet the requirements of subdivisions (b), (c), and (e), except that a district may, at its option, adopt and enforce equally effective or more stringent control measures than the airborne toxic control measures adopted by the state board. A district shall adopt rules and regulations implementing airborne toxic control measures on nonvehicular sources within its jurisdiction in conformance with the requirements of subdivisions (b), (c), and (e), not later than six months following the adoption of airborne toxic control measures by the state board.

(e) District new source review rules and regulations shall require new or modified sources to control emissions of toxic air contaminants consistent with subdivisions (b), (c), and (d) except for processors of food and fiber that operate for six months or less in any calendar year. The exception for processors of food and fiber shall become inoperative on January 1, 1987. On or before January 1, 1986, the state board, in consultation and with the participation of the Department of Food and Agriculture, shall report to the Legislature on the feasibility of implementation and the economic impact of this section on processors of food and fiber.

39667. Based on its determinations pursuant to Section 39662, the state board shall determine if revisions are needed in the emission standards for vehicular sources, or in the standards for motor vehicle fuel additives, adopted pursuant to Part 5 (commencing with Section 43000), in order to prevent harm to the public health from vehicular emissions.

Article 5. Scientific Review Panel

39670. (a) A nine-member Scientific Review Panel on Toxic Air Contaminants shall be appointed to advise the state board and the

Department of Food and Agriculture in their evaluation of the health effects toxicity of substances pursuant to Article 3 (commencing with Section 39660) of this chapter and Article 1.5 (commencing with Section 14021) of Chapter 3 of Division 7 of the Food and Agricultural Code.

(b) The members of the panel shall be highly qualified and professionally active or engaged in the conduct of scientific research, and shall be appointed as follows for a term of three years:

(1) Five members shall be appointed by the Secretary of the Environmental Affairs Agency, one of whom shall be qualified as a pathologist, one of whom shall be qualified as an oncologist, one of whom shall be qualified as an epidemiologist, one of whom shall be qualified as an atmospheric scientist, and one who shall have relevant scientific experience and shall be experienced in the operation of scientific review or advisory bodies.

(2) Two members shall be appointed by the Senate Committee on Rules, one of whom shall be qualified as a biostatistician and one of whom shall be a physician or scientist specializing in occupational medicine.

(3) Two members shall be appointed by the Speaker of the Assembly, one of whom shall be qualified as a toxicologist and one of whom shall be qualified as a biochemist.

(4) Members of the panel shall be appointed from a pool of nominees submitted to each appointing body by the President of the University of California. The pool shall include, at a minimum, three nominees for each discipline represented on the panel, and shall include only individuals who hold, or have held, academic or equivalent appointments at universities and their affiliates in California.

(c) The panel may establish ad hoc committees, which may include other scientists, to assist it in performing its functions.

(d) Members of the panel, and any ad hoc committee established by the panel, shall submit annually a financial disclosure statement that includes a listing of income received within the preceding three years, including investments, grants, and consulting fees derived from individuals or businesses which might be affected by regulatory actions undertaken by the state board or districts pursuant to this chapter. The financial disclosure statements submitted pursuant to this subdivision are public information. Members of the panel shall be subject to the disqualification requirements of Section 87100 of the Government Code.

(e) Members of the panel shall receive one hundred dollars ($100) per day for attending panel meetings, and shall be reimbursed for reasonable and necessary travel and other expenses incurred in the performance of their duties.

(f) The state board and the State Department of Health Services, and, in the case of pesticides, the Department of Food and Agriculture shall provide technical and clerical staff support to the panel.

Article 6. Penalties

39674. (a) Any person who violates any rule or regulation, emission limitation, or permit condition adopted pursuant to Article 4 (commencing with Section 39665) is liable for a civil penalty not to exceed ten thousand dollars ($10,000) for each day in which the violation occurs.

(b) There is no liability under subdivision (a) if the person accused of the violation alleges by affirmative defense and establishes that the violation is caused by an act which was not the result of intentional or negligent conduct.

SEC. 2. Article 1.5 (commencing with Section 14021) is added to Chapter 3 of Division 7 of the Food and Agricultural Code, to read:

Article 1.5. Pesticides

14021. (a) As used in this article, "pesticide" means any economic poison as defined in Section 12753.

(b) For purposes of this article, "toxic air contaminant" means an air pollutant which may cause or contribute to an increase in mortality or an increase in serious illness, or which may pose a present or potential hazard to human health. Pesticides which have been identified as hazardous air pollutants pursuant to Section 7412 of Title 42 of the United States Code shall be identified by the director as toxic air contaminants.

14022. (a) In consultation with the State Department of Health Services and the State Air Resources Board, the director shall evaluate the health effects of pesticides which may be or are emitted into the ambient air of California and which may be determined to be a toxic air contaminant which poses a present or potential hazard to human health. Upon request of the State Air Resources Board, the director shall include a pesticide for evaluation.

(b) In conducting this evaluation, the director shall consider all available scientific data, including, but not limited to, relevant data provided by the State Department of Health Services, the Occupational Safety and Health Division of the Department of Industrial Relations, international and federal health agencies, private industry, academic researchers, and public health and environmental organizations. At the request of the director, the State Air Resources Board shall document the level of airborne emissions and the State Department of Health Services shall provide an assessment of related health effects of pesticides which may be determined to pose a present or potential hazard and each agency shall provide technical assistance to the department as it conducts its evaluation.

(c) The director may request, and any person shall provide, information on any substance which is or may be under evaluation and which is manufactured, distributed, or used by the person to whom the request is made, in order to carry out his or her

responsibilities pursuant to this chapter. Any person providing information pursuant to this subdivision shall, at the request of the director, identify that portion of the information submitted to the department which is a trade secret and, upon the request of the director, shall provide documentation to support the claim of the trade secret. Information supplied which is trade secret, as specified in Section 6254.7 of the Government Code, and which is so marked at the time of submission shall not be released to the public by the director, except in accordance with Section 1060 of the Evidence Code and Section 21160 of the Public Resources Code.

(d) The director shall give priority to the evaluation and regulation of substances based on factors related to the risk of harm to public health, amount or potential amount of emissions, manner of usage of the pesticide in California, persistence in the atmosphere, and ambient concentrations in the community.

14023. (a) Upon completion of the evaluation conducted pursuant to Section 14022, the director shall, in consultation and with the participation of the State Department of Health Services, prepare a report on the health effects of the pesticide which may be determined to be a toxic air contaminant which poses a present or potential hazard to human health due to airborne emission from its use. The report shall assess the availability and quality of data on health effects, including potency, mode of action, and other relevant biological factors, of the substance. The report shall also contain an estimate of the levels of exposure which may cause or contribute to adverse health effects and, in the case where there is no threshold of significant adverse health effects, the range of risk to humans, resulting from current or anticipated exposure. The report shall include the findings of the State Department of Health Services. The report shall be made available to the public, subject to subdivision (c) of Section 14022.

(b) The report prepared pursuant to subdivision (a) shall be formally reviewed by the scientific review panel established according to Section 39670 of the Health and Safety Code. The director shall also make available the data deemed necessary to the scientific review panel, according to departmental procedures established to ensure confidentiality of proprietary information. The panel shall review, as appropriate, the scientific data on which the report is based, the scientific procedures and methods used to support the data, and the conclusions and assessments on which the report is based.

(c) If the scientific review panel determines that the health effects report is seriously deficient, the report shall be returned to the director who shall revise and resubmit the report to the panel prior to development of emission control measures.

(d) The director shall determine which pesticides are toxic air contaminants.

(e) The director shall determine, in consultation with the State Department of Health Services, the State Air Resources Board, and

the air pollution control districts or air quality management districts in the affected counties, the need for and appropriate degree of control measures for each pesticide identified as a toxic air contaminant in subdivision (d). Any person may submit written information for consideration by the director in making his determinations pursuant to subdivisions (d) and (e).

14024. (a) For those pesticides for which a need for control measures has been determined pursuant to subdivision (e) of Section 14023 and pursuant to provisions of this code, the director, in consultation with the agricultural commissioners and air pollution control districts and air quality management districts in the affected counties, shall develop and adopt control measures designed to reduce emissions sufficiently so that the source will not expose the public to the levels of exposure which may cause or contribute to significant adverse health effects. Where no demonstrable safe level or threshold of significant adverse health effects has been established by the director, the control measures shall be designed to adequately prevent an endangerment of public health through the application of best practicable control techniques.

(b) Best practicable control techniques may include, but are not limited to, the following:

(1) Label amendments.

(2) Applicator training.

(3) Restrictions on use patterns or locations.

(4) Changes in application procedures.

(5) Reclassification as a restricted material.

(6) Cancellation.

14025. Any person may petition the department to review a determination made pursuant to this article. The petition shall specify the additional scientific evidence regarding the health effects of a pesticide which was not available at the time the original determination was made and any other evidence which would justify a revised determination.

14026. Nothing in this article shall be construed to limit or expand the department's authority regarding pesticides which are not determined to be toxic air contaminants.

SEC. 3. It is the intention of the Legislature, in the enactment of this act, that the State Air Resources Board, the State Department of Health Services, and the Department of Food and Agriculture shall perform the functions required by this act within their respective existing resources and budgetary authorizations during the 1983–84 fiscal year, by appropriating sufficient funds in Items 3400-001-001, 3400-001-044, 4260-001-001, 4260-001-044, 4260-001-455, 8570-001-001, 8570-001-111, 8570-001-890, 8570-101-001 and 8570-101-111 of the Budget Act of 1983 (Ch. 324, Stats. 1983).

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 1048

An act to amend Sections 206, 4009, 4152, 8215, 8831, 8839, and 8840 of, to add Sections 8607, 8635, 8834.1, and 12166 to, to repeal Sections 8188, 8189, 8830.5, 8838, and 8841 of, and to repeal and add Sections 8830 and 12156 of, the Fish and Game Code, and to amend Section 15377 of the Government Code, relating to fish and game, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Section 206 of the Fish and Game Code is amended to read:

206. In addition to any other regular or special meetings, the commission shall hold eight meetings, one in August, one in October, one in December, one in March, one in April, and one in June of each year, one meeting to consider the proposals relating to fish, amphibia, and reptiles presented at the October meeting, and one meeting to consider the proposals relating to mammals presented at the March meeting.

The October and December meetings shall be devoted to determining what, if any, regulations should be made pursuant to this article in relation to fish, amphibia, and reptiles and to the making of such regulations.

The March and April meetings shall be devoted to determining what, if any, regulations should be made pursuant to this article in relation to mammals and to the making of those regulations.

The June and August meetings shall be devoted to determining what, if any, regulations should be made pursuant to this article in relation to resident game birds.

After the October meeting the commission shall hold a fishing proposals meeting, which shall be devoted to open public discussion of, and presentation of objections to, the proposals presented to the commission in October, and after considering the discussion and objections, the commission, at the meeting, shall announce the regulations which it proposes to make relating to fish, amphibia, and reptiles.

After the March meeting the commission shall hold a hunting proposals meeting, which shall be devoted to open public discussion of, and presentation of objections to, the proposals presented to the commission in March, and, after considering the discussion and

objections, the commission, at the meeting, shall announce its determinations and the regulations which it intends to make relating to mammals.

The commission shall give notice of the time and place of the meetings by publishing a notice thereof in any publication issued by the department after determining the time and place of the meetings and prior to the dates thereof. All meetings required by this section shall be open to the public.

SEC. 2. Section 4009 of the Fish and Game Code is amended to read:

4009. It is unlawful to remove or disturb the trap of any licensee while the trap is being used by the licensee on public land or on land where the licensee has permission to trap. This section does not apply to any employee of the department while engaged in the performance of official duties.

SEC. 3. Section 4152 of the Fish and Game Code is amended to read:

4152. Nongame mammals and black-tailed jackrabbits, muskrats, and red fox squirrels which are found to be injuring growing crops or other property may be taken at any time or in any manner by the owner or tenant of the premises or employees thereof, except that if leg-hold steel-jawed traps are used to take those mammals, the traps and the use thereof shall be in accordance with the provisions of subdivisions (a), (b), and (d) of Section 4004. They may also be taken by officers or employees of the Department of Food and Agriculture or by federal, county, or city, officers or employees when acting in their official capacities pursuant to the provisions of the Food and Agricultural Code pertaining to pests, or pursuant to the provisions of Article 6 (commencing with Section 6021) of Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code. Persons taking mammals in accordance with this section are exempt from the requirements of Section 3007.

SEC. 4. Section 8188 of the Fish and Game Code is repealed.

SEC. 5. Section 8189 of the Fish and Game Code is repealed.

SEC. 6. Section 8215 of the Fish and Game Code is amended to read:

8215. Silver salmon may not be sold or possessed in, or transported through, District 6, 7, 10, 11, 15, 16, 17, or 18, during the time when the taking of silver salmon for commercial purposes is unlawful in those districts.

SEC. 7. Section 8607 is added to the Fish and Game Code, to read:

8607. It is unlawful for any person possessing or operating any type of net, trap, or line that is subject to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.) to possess or land any load of fish in violation of those federal groundfish regulations.

SEC. 8. Section 8635 is added to the Fish and Game Code, to read:

8635. (a) Notwithstanding Section 8633, any net or trap seized pursuant to Section 8630 as illegal because of its size, manner of

construction, materials used in its construction, or configuration of its parts is presumed to be contraband and shall not be returned pending forfeiture unless it can be and is modified to eliminate the condition of illegality. This subdivision does not apply to any net or trap seized pursuant to Section 8630 for illegal use.

(b) Notwithstanding subdivision (a), any net or trap seized pursuant to Section 8630 that is needed for evidence may be held for evidence.

SEC. 9. Section 8830 of the Fish and Game Code is repealed.

SEC. 10. Section 8830 is added to the Fish and Game Code, to read:

8830. "Trawl net" means a cone or funnel-shaped net which is towed or drawn through the water by a fishing vessel and includes any gear appurtenant to the net. Except as otherwise provided in this article, the use of trawl nets shall conform to federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C. Sec. 1801 et seq.).

SEC. 11. Section 8830.5 of the Fish and Game Code is repealed.

SEC. 12. Section 8831 of the Fish and Game Code is amended to read:

8831. It is unlawful for any person to use any trawl net with meshes which are less than 4½ inches in length except as provided in this article or as provided by federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.).

SEC. 13. Section 8834.1 is added to the Fish and Game Code, to read:

8834.1. It is unlawful for any person to possess salmon on board, or to land salmon from, a vessel on which exists any type of trawl net, except that salmon taken incidentally with other species with a trawl net may be possessed and landed if authorized to be taken incidentally pursuant to Section 663.10 of Part 663 of Title 50 of the Code of Federal Regulations, pursuant to a permit issued by the commission under Section 8606, or pursuant to both.

SEC. 14. Section 8838 of the Fish and Game Code is repealed.

SEC. 15. Section 8839 of the Fish and Game Code is amended to read:

8839. Double bags or cod-ends may be used or possessed in accordance with federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.). Any such double bag shall be so hung and tied to each rib line that the knots of each layer shall coincide, knot for knot, for the full length of the double layers. The double mesh section shall not measure over 25 meshes or 12 feet in length, whichever is greater. The individual meshes in the double section shall measure not less than 4½ inches in length.

SEC. 16. Section 8840 of the Fish and Game Code is amended to read:

8840. Chafing gear may be used or possessed but shall not be

connected directly to the terminal, or closed, end of the cod-end. Except for chafing gear prescribed under federal groundfish regulations adopted pursuant to the Magnuson Fishery Conservation and Management Act (16 U.S.C., Sec. 1801 et seq.), all chafing gear shall have a minimum mesh size of six inches, unless only the bottom one-half, or underside, of the cod-end is covered by chafing gear, which may be of any size mesh.

SEC. 17. Section 8841 of the Fish and Game Code is repealed.

SEC. 18. Section 12156 of the Fish and Game Code is repealed.

SEC. 19. Section 12156 is added to the Fish and Game Code, to read:

12156. The commission may revoke the trapping license of any person to take fur-bearing and nongame mammals upon a conviction of a violation of any provision of Article 1 (commencing with Section 4000) of Chapter 2 of Part 3 of Division 4. The department may deny a trapping license in the license year following a conviction. An applicant who has been denied a trapping license may request a hearing before the commission, and the commission shall determine whether a trapping license shall be issued to the applicant.

SEC. 20. Section 12166 is added to the Fish and Game Code, to read:

12166. A termination of probation and dismissal of charges pursuant to Section 1203.4 of the Penal Code or a dismissal of charges pursuant to Section 1203.4a of the Penal Code does not affect either a past revocation or suspension of any license or permit to take fish or game or the authority of the commission or a court to revoke or suspend a license or permit to take fish and game.

SEC. 21. Section 15377 of the Government Code is amended to read:

15377. The provisions of this chapter shall not apply to any of the following:

(a) Any permit subject to the provisions of Chapter 4.5 (commencing with Section 65920) of Division 1 of Title 7.

(b) Any permit for which the issuing agency can demonstrate that the median time of processing an application for the permit, from receipt of the initial application to the final permit decision, based upon the agency's actual performance during the 12 months immediately preceding the implementation of this chapter did not exceed seven days.

(c) Any permit issued by the Public Utilities Commission.

(d) Any permit issued by the Franchise Tax Board under Part 10 (commencing with Section 17001), Part 10.5 (commencing with Section 19501), or Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code.

(e) Any permit issued by the State Energy Resources Conservation and Development Commission.

(f) Any license or permit issued pursuant to the Fish and Game Code.

(g) Any document considered to be a receipt.

SEC. 22. The sum of forty-two thousand six hundred eighty-seven dollars and fifty-six cents ($42,687.56) of the unexpended balance of the appropriation made in Item 238.1 of Chapter 510 of the Statutes of 1980 to the Department of Fish and Game and encumbered by the department by contract with the County of Santa Cruz for implementation of the soil restoration element of the San Lorenzo River watershed management plan, is hereby reappropriated to the Department of Fish and Game for payment of the final invoice on that contract, or, in the alternative, if that unexpended balance is not available, that sum is hereby appropriated from the Energy and Resources Fund, to which it reverted, to the department for that purpose.

SEC. 23. 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. 24. This act is an urgency statute necessary for the immediate preservation of 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 possible legal conflicts between state and federal law and the resulting unnecessary hardship to this state's fishermen as soon as possible, to avoid legal conflicts over payment due on a departmental contract, and in order to make changes in laws relating to hunting, fishing, and trapping in time for the 1983–84 hunting season, it is necessary that this act take effect immediately.

CHAPTER 1049

An act to add Article 4 (commencing with Section 773) to Chapter 5 of Division 3 of the Harbors and Navigation Code, relating to charter boat safety, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 23, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Article 4 (commencing with Section 773) is added to Chapter 5 of Division 3 of the Harbors and Navigation Code, to read:

Article 4. Charter Boat Safety

773. The Legislature finds and declares that the charter boat industry operates in the public interest by providing jobs, nutritious food, education, recreation, and joy for Californians and their visitors. The appreciation of whales in their natural habitat has increased enormously in recent years, along with the number of off-shore excursions embarking from California harbors, carrying people from all over the world close to whales that pass along our shore. Because Pacific Ocean conditions, especially in winter, may suddenly turn rough or even hazardous, the public health and safety, as well as the continued vitality of the charter boat industry, is best served by appropriate safety regulation.

773.1. This article shall be known and may be cited as the Charter Boat Safety Act of 1983.

773.2. As used in this article:

(a) "For-hire vessel" means a for-hire vessel as defined in Section 4661 of the Public Utilities Code, irrespective of the number of passengers carried.

(b) "Charter boat" means a for-hire vessel operating on navigable water of the state in the coastal zone as defined in Section 30103 of the Public Resources Code, whether or not the vessel is licensed by the state. However, "charter boat" does not include any boat operating solely within a harbor, as defined in Section 34, or any boat licensed for point-to-point service while operating within the scope of that license.

(c) "Operator" means a person owning, controlling, operating, or managing a for-hire vessel.

(d) "Charterer" means a person who receives compensation for contracting with an operator to transport three or more passengers.

(e) "Coast Guard" means the United States Coast Guard.

(f) "Life preserver" means a life preserver approved and certified by the Coast Guard and capable of providing at least 90 percent of factory-rated flotation capacity.

(g) "Person" means any individual, firm, partnership, for-profit corporation, not for-profit corporation, company, association, joint stock association, trustee, receiver, assignee, or other similar entity or representative.

773.3. No person shall take or offer to take seven or more passengers on a charter boat unless the vessel is licensed by the United States Coast Guard.

773.4. (a) No operator or charterer shall prevent any person from complying with, or direct any person to violate, any provision of this article, or direct the captain to get underway over the captain's objection that the condition of the vessel, or the weather, or a combination of both, makes the trip inadvisable.

(b) It shall be a full and complete defense to a charge of violating this section that, given the then-existing conditions of the vessel and the weather, the captain's or other person's compliance, however

obtained, did not violate and would not have violated any provision of this article or any regulation of the Coast Guard, and was and would have been consistent with all safety precautions and procedures recommended by the Coast Guard.

(c) As used in this section:

(1) "Direct" means to coerce or attempt to coerce by threat of loss of employment or charter earnings or, if by an operator but not a charterer, to make a demand in violation of this section under circumstances in which it would be reasonable for the captain or other person to believe that failure to comply could lead to the loss of his or her employment or charter earnings.

(2) "Captain" means the individual responsible for the operation of the vessel while underway.

773.5. The operator of a charter boat, or the operator's employee or agent, shall require each passenger to don a life preserver under any of the following conditions:

(a) When conditions of rough weather or heavy seas pose a threat to the vessel or its passengers.

(b) When there is a casualty to the vessel including, but not limited to, any of the following:

(1) Loss of watertight integrity.

(2) Loss of propulsion or steering in close proximity to a shoal or shore.

(3) Fire at sea.

(4) When under tow

(c) When crossing or navigating the bar or shoal at or near the entrance of any California harbor where weather conditions, surface current, breaking seas, or severely reduced visibility, cause an increase in the possibility of a sudden emergency that might prevent passengers from donning life preservers before entering the water.

(d) As used in this section:

(1) "An increase in the possibility" means a decrease in the certainty of a reasonably prudent operator that normal operation of the charter boat would avoid any sudden mishap.

(2) "Normal operation" means operation without resort to emergency procedures or other extraordinary measures to maintain course.

773.6. An operator, or the operator's employee or agent, who directs the passengers to the life preservers while announcing that the passengers are required for their safety to don them shall be deemed to have complied with Section 773.5, if the operator, or the operator's employee or agent, or the operator's employee at least once instructs any passenger who fails to don a life preserver to do so, and if the life preservers are unwrapped, ready to be donned, and stowed in a conveniently accessible place.

773.7. The operator, or the operator's employee or agent, of a charter boat, prior to getting underway, shall orient each passenger concerning emergency procedures. The orientation shall include, but not be limited to, a demonstration of how to don and use a life

preserver. On charter boats of over 100 passenger capacity, the demonstration may be verbal or pictorial.

773.8. A charterer or operator who organizes charter boat trips during December, January, February, March, or April shall inform each adult passenger as soon as practicable after the passenger contracts or pays for passage or boards the charter boat, whichever occurs first, that life jackets will be provided at the adult passenger's request. Adult and minor passengers shall be informed that life jackets are required to be worn at the direction of the operator or the operator's employee or agent.

774. (a) Every charterer and every charter boat operator shall include in all advertising for any charter trips in the coastal zone, as defined in Section 30103 of the Public Resources Code, the statement that for the public safety all personal flotation devices carried aboard these United States Coast Guard Certificated Vessels are inspected and approved by the United States Coast Guard.

(b) Any operator or charterer who violates this section shall be liable for a civil penalty not less than fifty dollars ($50) and not more than one hundred dollars ($100) for each violation. The action shall be brought in the manner specified in Section 17206 of the Business and Professions Code.

774.1. No operator of a for-hire vessel shall leave or enter Morro Bay after being directed by the harbormaster of the harbor not to do so because of the condition of the weather, the sea, the vessel, or a combination thereof.

774.2. The operation of Section 773.5, 773.7, or 774.1 shall be suspended when the Legislature by resolution finds that the Coast Guard or other appropriate federal agency has adopted and is enforcing a substantially similar regulation.

774.3. (a) Except as provided in Section 774, violation of any provision of this article is a misdemeanor punishable by imprisonment for not more than one year in the county jail, or a fine of not more than fifty thousand dollars ($50,000), or both the fine and imprisonment.

(b) Any operator who violates any provision of this article shall be liable for a civil penalty not less than fifty dollars ($50) and not more than one hundred dollars ($100) for each violation. The action shall be brought in the manner specified in Section 17206 of the Business and Professions Code.

(c) Any violation of this article may be enjoined by the manner specified in Section 17203 of the Business and Professions Code and a violation of an injunction may be punished to the extent provided in Section 17207 of the Business and Professions Code.

774.4. (a) This article does not impose any mandatory duties upon any public entity to monitor sea or weather conditions or to warn or prevent vessels from leaving or entering a harbor entrance during unsafe conditions.

(b) No public entity or employee thereof is liable for any injury which results from any act, or omission to act, prohibiting an operator

for a for-hire vessel from leaving or entering a harbor.

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 that the charter boat safety regulations contained in this act may take effect at the earliest possible date, it is necessary that this act take effect immediately.

CHAPTER 1050

An act to amend Section 6388.6 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 23, 1983. Filed with Secretary of State September 26, 1983.]

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

SECTION 1. Section 6388.6 of the Revenue and Taxation Code is amended to read:

6388.6. (a) Notwithstanding Section 6388, where a cargo container, as defined in this section, is purchased for use without this state and is delivered by an instate manufacturer to the purchaser within this state, and such purchaser moves such cargo container to any point outside this state within 30 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 such cargo container within the state, provided that the purchaser furnishes all of the following to the manufacturer:

(1) The purchaser's affidavit attesting that he purchased such cargo container at a specified location for use exclusively outside this state, or exclusively in interstate commerce.

(2) The purchaser's affidavit that such cargo container has been moved to a point outside this state within 30 days of the date of the delivery of the cargo container to him.

(b) As used in this section "cargo container" means a receptacle which has all of the following characteristics:

(1) Of a permanent character and accordingly strong enough to be suitable for repeated use.

(2) Specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by vessels, without intermediate reloading.

(3) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another.

(4) Designed to be easy to fill and empty.

(5) Having a cubic displacement of 1,000 cubic feet or more.

(c) This section shall remain in effect only until January 1, 1994, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1994, deletes or extends such date.

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 1051

An act to amend Sections 14735, 16180, 16181, 16182, 16183, 16184, 16186, 16190, 16191, 16192, 16201, and 16211 of the Government Code, to add Section 18079 to the Health and Safety Code, to amend Sections 2505, 2514, 20505, 20542, 20564, 20583, 20585, 20586, 20641, 20641.5, 20643, 20645.5, and 20645.6 of, to repeal Sections 20501.5 and 20631 of, and to add Chapter 3.3 (commencing with Section 20639) to Part 10.5 of Division 2 of, the Revenue and Taxation Code, relating to property tax postponement, and making an appropriation therefor.

[Approved by Governor September 23, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Section 14735 of the Government Code is amended to read:

14735. Upon being directed by the Controller to sell a residential dwelling pursuant to Section 16201, the department shall sell the residential dwelling in the manner prescribed and in accordance with the procedure established in Chapter 7 (commencing with Section 3201) of Part 5 of Division 1 of the Revenue and Taxation Code, or if applicable, in the manner prescribed and in accordance with the procedures established in Chapter 5 (commencing with Section 9501) of Division 9 of the Commercial Code.

SEC. 2. Section 16180 of the Government Code is amended to read:

16180. Out of the amount appropriated to the Controller by Section 16100, the sum of twelve million seven hundred thousand dollars ($12,700,000) for the 1977-78 fiscal year and each fiscal year thereafter is hereby made available to the Controller to pay the face amount of all certificates of eligibility for the postponement of property taxes submitted to the Controller which are signed and countersigned in the manner specified in Sections 20602, 20603, 20639.6, 20640.6, and 20640.7 of the Revenue and Taxation Code.

SEC. 3. Section 16181 of the Government Code is amended to read:

16181. (a) The Controller shall maintain a record of all properties against which a notice of lien for postponed property taxes has been recorded. Such record shall include, but not be limited to, the names of each claimant, a description of the real property against which the lien is recorded, the identification number of the notice of lien assigned by the Controller, and the amount of the lien.

(b) The Controller shall maintain a record of all properties against which the Department of Housing and Community Development has been notified to withhold the transfer of title or permit for transport. The record shall include, but not be limited to, the names of each claimant, a description of the mobilehome against which a lien is charged, and the amount of the lien.

(c) Upon written request of any person or entity, or the agent of either, having a legal or equitable interest in real property or a mobilehome which is subject to a lien for postponed taxes, the Controller shall within 10 working days following receipt of such request issue a written statement showing the amount of the obligation secured by the lien as of the date of such statement and such other information as will reasonably enable such person or entity, or the agent of either, to determine the amount to be paid the Controller in order to obtain a certificate of release or discharge of the lien for postponed taxes.

(d) The Controller shall adopt regulations necessary to implement the provisions of this chapter and may establish a reasonable fee, not to exceed ten dollars ($10), for the provision of the statement of lien status provided for herein.

SEC. 4. Section 16182 of the Government Code is amended to read:

16182. (a) All sums paid by the Controller under the provisions of this chapter, together with interest thereon, shall be secured by a lien in favor of the State of California upon the real property or a mobilehome for which property taxes have been postponed, or both. In the case of a residential dwelling which is part of a larger parcel taxed as a unit, such as a duplex, farm, or multipurpose or multidwelling building, the lien shall be against the entire tax parcel.

(b) In the case of real property:

(1) The lien shall be evidenced by a notice of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing

pursuant to this chapter, including amounts paid subsequent to the initial payment of postponed taxes on the real property described in the notice of lien.

(2) The notice of lien may bear the facsimile signature of the Controller. Each such signature shall be that of the person who shall be in the office at the time of execution of the notice of lien; provided, however, that such notice of lien shall be valid and binding notwithstanding any such person having ceased to hold the office of Controller before the date of recordation.

(3) The form and contents of the notice of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, the following:

(A) The names of all record owners of the real property for which the Controller has advanced funds for the payment of real property taxes.

(B) A description of the real property for which real property taxes have been paid.

(C) The identification number of the notice of lien which has been assigned the lien by the Controller.

(4) The notice of lien shall be recorded in the office of the county recorder for the county in which the real property subject to the lien is located.

(5) The recorded notice of lien shall be indexed in the Grantor Index to the names of all record owners of the real property and in the Grantee Index to the Controller of the State of California.

(6) After the notice of lien has been duly recorded and indexed, it shall be returned by the county recorder to the office of the Controller. The recorder shall provide the county tax collector with a copy of the notice of lien which has been recorded by the Controller.

(7) From the time of recordation of a notice of lien for postponed property taxes, a lien shall attach to the real property described therein and shall have the priority of a judgment lien for all amounts secured thereby, except that the lien shall remain in effect until

(i) Released by the Controller in the manner prescribed by Section 16186, or

(ii) The foreclosure or sale of an obligation secured by a lien which is senior in priority to the lien of the State of California.

(c) In the case of mobilehomes:

(1) The lien shall be evidenced by a statement of lien for postponed property taxes executed by the Controller, or the authorized delegate of the Controller, and shall secure all sums paid or owing pursuant to this chapter.

(2) The statement of lien may bear the facsimile signature of the Controller. The signature shall be that of the person who is in the office at the time of execution of the statement of lien. However, the statement of lien is valid and binding notwithstanding the person having ceased to hold the office of Controller before the date of filing.

(3) The form and contents of the statement of lien for postponed property taxes shall be prescribed by the Controller and shall include, but not be limited to, all of the following:

(A) The name or names of the registered owner or owners, legal owner or owners, if different than the registered owner or owners and the names, if any, of all junior lienholders.

(B) The identification number of the Statement of Lien which has been assigned the lien by the Controller.

(4) The Statement of Lien shall be transmitted to the Department of Housing and Community Development at its office in Sacramento, California.

(5) Upon receipt of the Statement of Lien for postponed property taxes from the Controller, the Department of Housing and Community Development shall immediately amend the permanent title record and current registration card of the mobilehome to reflect that the property taxes on the mobilehome are subject to postponement.

(6) The Department of Housing and Community Development shall provide the Controller with a copy of the amended registration card.

(7) From the time the Department of Housing and Community Development receives the statement of lien from the Controller, the department shall not do any of the following, until released by the Controller in the manner prescribed by Section 16186:

(A) Issue any permit for transportation of the mobilehome.

(B) Accept any application for change or amendment of registration of the mobilehome

(C) Transfer any registration of the mobilehome whether voluntary or involuntary by operation of law.

(d) From the time of filing a Statement of Lien, a lien shall attach to the mobilehome for which eligibility for the postponement of property taxes has been granted. The Statement of Lien shall have the priority of a security interest within the meaning of Article 4 (commencing with Section 18098) of Chapter 8 of Part 2 of Division 13 of the Health and Safety Code.

SEC. 4.5. Section 16183 of the Government Code is amended to read:

16183. (a) (1) From the time a payment is made pursuant to Section 16180, the amount of that payment shall bear interest at a rate (not compounded), determined as follows:

(1) For the period ending June 30, 1984, the rate of interest shall be 7 percent per annum.

(2) The Controller shall establish an adjusted rate of interest for the purpose of this subdivision not later than July 15th of any year if the effective annual yield of the Pooled Money Investment Account for the prior fiscal year is at least a full percentage point more or less than the interest rate which is then in effect. The adjusted rate of interest shall be equal per annum to the effective annual yield earned in the prior fiscal year by the Pooled Money Investment

Account rounded to the nearest full percent, and shall become effective for new deferrals, beginning on July 1, 1984, and on July 1 of each immediately succeeding year.

(3) The rate of interest provided pursuant to this subdivision for the first fiscal year commencing after payment is made pursuant to Section 16180 shall apply for that fiscal year and each fiscal year thereafter until these postponed property taxes are repaid.

(b) The interest provided for in subdivision (a) shall be applied beginning the first day of the month following the month in which that payment is made and continuing on the first day of each month thereafter until that amount is paid. In the event that any payments are applied, in any month, to reduce the amount paid pursuant to Section 16180, the interest provided for herein shall be applied to the balance of that amount beginning on the first day of the following month.

(c) In computing interest in accordance with this section, fractions of a cent shall be disregarded.

(d) For the purpose of this section, the time a payment is made shall be deemed to be the time a certificate of eligibility is countersigned by the tax collector or the delinquency date of the respective tax installment, whichever is later.

(e) The Controller shall include on forms supplied to claimants pursuant to Sections 20621, 20630.5, 20639.9, 20640.9, and 20641 of the Revenue and Taxation Code, a statement of the interest rate which shall apply to amounts postponed for the fiscal year to which the form applies.

SEC. 5. Section 16184 of the Government Code is amended to read:

16184. The Controller shall reduce the amount of the obligation secured by the lien against the real property or mobilehome by the amount of any payments received for that purpose and by notification of any amounts paid by the Franchise Tax Board pursuant to Section 20564 or by any amounts authorized pursuant to subdivision (f) of Section 20621 of the Revenue and Taxation Code. The Controller shall also increase the amount of the obligation secured by such lien by the amount of any subsequent payments made pursuant to Section 16180 with respect to the real property and to reflect the accumulation of interest. All such increases and decreases shall be entered in the record described in Section 16181.

SEC. 6. Section 16186 of the Government Code is amended to read:

16186. If at any time the amount of the obligation secured by the lien for postponed property taxes is paid in full or otherwise discharged, the Controller, or the authorized delegate of the Controller, shall:

(a) In the case of real property:

(1) Execute and cause to be recorded in the office of the county recorder of the county wherein the real property described in the lien is located, a release of the lien conclusively evidencing the

satisfaction of all amounts secured by the lien. The cost of recording the release of the lien shall be added to and become part of the obligation secured by the lien being released.

(2) Direct the tax collector to remove from the secured roll, the information required to be entered thereon by paragraph (1) of subdivision (a) of Section 2514 of the Revenue and Taxation Code with respect to the property described in the lien.

(3) Direct the assessor to remove from the assessment records applicable to the property described in the lien, the information required to be entered on such records by Section 2515 of the Revenue and Taxation Code.

(b) In the case of a mobilehome:

(1) Direct the tax collector to remove from the secured roll the information required to be entered thereon by paragraph (1) of subdivision (a) of Section 2514 of the Revenue and Taxation Code.

(2) Transmit a Release of Lien to the owner of the mobilehome or the owner's heirs or assigns. The owner, or the owner's heirs or assigns, shall transmit the Release of Lien, and a fee of six dollars ($6), to the Department of Housing and Community Development. Upon receipt of the Release of Lien and the fee, the department shall terminate the restriction on the transfer of ownership and issue amended title and registration certificates.

SEC. 7. Section 16190 of the Government Code is amended to read:

16190. All amounts owing pursuant to Article 1 (commencing with Section 16180) of this chapter shall become due if any of the following occurs:

(a) The claimant, who is either the sole owner or sole possessory interest holder of the residential dwelling, as defined in Section 20583 or Section 20640 of the Revenue and Taxation Code, or a coowner or copossessory interest holder with a person other than a spouse or other individual eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of such code, ceases to occupy the premises as his residential dwelling, dies, or sells, conveys, or disposes of the property, or allows any tax or special assessment on the premises described in Section 20583 of such code to become delinquent. If the sole owner or possessory interest holder claimant dies and his or her surviving spouse inherits the premises and continues to own and occupy it as his or her principal place of residence, then the lien amount does not become due and payable unless taxes or special assessments described in the preceding sentence become delinquent, or such surviving spouse dies, or sells, conveys or disposes of the interest in the property.

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

Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of such code, dies, and the surviving spouse or other surviving eligible individual allows any tax or special assessment on the premises described in Section 20583 of such code to become delinquent or such surviving spouse or other individual ceases to occupy the premises as a residential dwelling, dies, or conveys, or disposes of the interest in the property.

(c) The failure of the claimant to perform those acts the claimant is required to perform where such performance is secured, or will be secured in the event of nonperformance, by a lien which is senior to that of the lien provided by Section 16182.

(d) Postponement was erroneously allowed because eligibility requirements were not met.

SEC. 8. Section 16191 of the Government Code is amended to read:

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

(a) The claimant continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but ceases to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent.

(b) The surviving spouse of a claimant continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but is ineligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, or elects not to postpone such taxes, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent.

(c) The surviving individual otherwise eligible to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code continues to own and occupy or hold the possessory interest and occupy the premises as a residential dwelling, but elects not to postpone the property taxes pursuant to such chapter, and does not allow any tax or assessment against the premises, as described in Section 20583 of such code, to become delinquent.

SEC. 9. Section 16192 of the Government Code is amended to read:

16192. If, at any time, a person meeting the requirements of subdivision (a) or (c) of Section 16191 elects, or any surviving spouse described in subdivision (b) of such section becomes eligible, or otherwise elects, to postpone property taxes pursuant to Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code, payments made pursuant to Section 16180 shall be added to the amount of the lien existing against the residential dwelling.

SEC. 10. Section 16201 of the Government Code is amended to read:

16201. If the Controller, by reason of the notice described in Section 3375 of the Revenue and Taxation Code or by reason of information from any other source, determines that all amounts owing under Article 1 (commencing with Section 16180) of this chapter have become due and payable pursuant to Section 16190, the Controller may, in addition to the options provided in Section 16200, take any of the following actions which will best serve the interest of the state:

(a) The Controller may demand payment of such amount from any person liable therefor.

(b) If the Controller has reasonable cause to believe that sale of the property will not satisfy the amount secured by the state's lien, the Controller may file a claim against the estate of any decedent whose property is liable for such amount or the Controller may request the Attorney General to bring an action under Section 2931c of the Civil Code to recover the amount of the state's lien.

(c) The Controller may direct the Department of General Services to sell such property pursuant to Chapter 4.5 (commencing with Section 14735) of Part 5.5 of Division 3 of this title or, if applicable, Division 9 (commencing with Section 9109) of the Commercial Code.

SEC. 11. Section 16211 of the Government Code is amended to read:

16211. The claimant under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639, or Chapter 3.5 (commencing with Section 20640) of Part 10.5 of Division 2 of the Revenue and Taxation Code whose residential dwelling was sold or condemned may draw upon the amount in the account to purchase a new residential dwelling, and the amount so drawn shall be secured by a new lien against the new residential dwelling from the time the Controller records the new lien against the new residential dwelling as provided for under Section 16182.

In the case of real property, the Controller shall subordinate the new lien to the lien of the note and deed of trust of the purchase money obligations used in the acquisition of the new residential dwelling, provided the claimant has an equity of at least 20 percent of the full value of the property, as required by paragraph (1) of

subdivision (b) of Section 20583 of the Revenue and Taxation Code, prior to recordation of that subordination. The lien shall have priority over all subsequent liens, except as provided in Section 2192.1 of the Revenue and Taxation Code.

SEC. 11.5. Section 18079 is added to the Health and Safety Code, to read:

18079. The department shall implement property tax postponement programs on behalf of eligible mobilehome owners, as provided by law.

SEC. 12. Section 2505 of the Revenue and Taxation Code is amended to read:

2505. (a) Except as provided in subdivision (b), the assessor, tax collector, or treasurer for any city or county may in his discretion accept negotiable paper in payment of any tax, or assessment, or on a redemption.

(b) The tax collector of a county shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the county tax bill. The tax collector, treasurer, or other official charged with the duty of collecting taxes for a chartered city which levies and collects its own property taxes shall accept a certificate of eligibility to pay all or any part of any ad valorem property tax, special assessment, or other charge or user fee appearing on the tax bill of such city. A certificate for partial payment shall not be accepted unless accompanied by an amount sufficient to fully pay the remaining ad valorem property taxes, special assessment, or other charge or fee appearing on the respective tax bill installment.

(c) Except as provided in Chapter 2 (commencing with Section 20581), Chapter 3.3 (commencing with Section 20639), Chapter 3.5 (commencing with Section 20640), or Chapter 4 (commencing with Section 20641) of Part 10.5 of Division 2, a certificate of eligibility shall not be used to pay any delinquent taxes, assessments, penalties, costs, fees, or interest, or any redemption charges.

(d) For the 1978–79 fiscal year and thereafter, except as to those amounts which can be paid by a certificate pursuant to subdivision (c), the tax collector shall not accept a certificate of eligibility to pay all or part of any installment if tendered after the delinquency date thereof, unless accompanied by an amount sufficient to fully pay any delinquent taxes, assessments, costs, penalties, interest, fees or other charges resulting from the delinquency or delinquencies.

(e) In no event shall a certificate of eligibility be accepted later than the expiration date designated thereon.

SEC. 13. Section 2514 of the Revenue and Taxation Code is amended to read:

2514. (a) Upon receipt of a certificate of eligibility described in Section 20602, Section 20639.6, or Section 20640.6 signed by the claimant, the claimant's spouse, or authorized agent appointed under regulations adopted by the Controller pursuant to Section 20603 or Section 20640.7, the tax collector shall ascertain whether the

amount of money entered on the certificate by such claimant or agent, when added to other amounts available for such purpose, are sufficient to pay the amount due and owing.

If such is the case, the tax collector or his designee shall countersign the certificate and mark the tax paid. Once signed and countersigned, a certificate of eligibility shall be deemed a negotiable instrument for purposes of all laws of this state, as specified in subdivision (d) of Section 20602. Upon acceptance of such a certificate:

(1) The tax collector shall enter the fact that taxes on the property have been postponed in appropriate columns on the roll. In the case of the secured roll, this information may be entered in that portion of the roll which has been designated for sale to the state information required by Section 3439.

(2) In the case of a certificate of eligibility issued pursuant to Section 20602, the tax collector shall determine if the property described in the certificate of eligibility is subject to a lien recorded pursuant to Section 16182 of the Government Code. If the property is not subject to such a lien, the tax collector shall enter the amount paid by use of the certificate, the date of such payment, the Controller's identification number shown on the certificate of eligibility, the address of the property covered by the certificate, and the name of the claimant as shown on the certificate on a "notice of lien for postponed property taxes" form which shall be provided by the Controller. The tax collector shall thereafter forward such notice of lien form to the assessor.

(3) With respect to a claimant whose property taxes are paid by a lender from an impound, trust, or other type of account described in Section 2954 of the Civil Code, the tax collector shall notify the auditor of the claimant's name and address, and the amount of money entered on the certificate.

The auditor, treasurer, or disbursing officer shall send a check in the amount of money entered on the certificate to said claimant within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received from the claimant, whichever is later.

(b) The procedures established by this chapter shall not be construed to require a lender to alter the manner in which a lender makes payment of the property taxes of such claimant.

SEC. 14. Section 20501.5 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 20505 of the Revenue and Taxation Code is amended to read:

20505. "Claimant" means an individual who—

(a) For purposes of this chapter was either (1) 62 years of age or older on the last day of the calendar year or approved fiscal year designated in subdivision (b) or (c) of Section 20503, whichever is applicable, or (2) blind or disabled, as defined in Section 12050 of the Welfare and Institutions Code on the last day of the calendar year or

approved fiscal year designated in subdivision (b) of Section 20503, who was a member of the household, and who was either: (1) the owner and occupier of a residential dwelling on the last day of the year designated in subdivision (b) or (c) of Section 20503, or (2) the renter of a rented residence on or before the last day of the year designated in subdivision (b) of Section 20503. An individual who qualifies as an owner-claimant may not qualify as a renter-claimant for the same year.

(b) For purposes of Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640) was a member of the household and either an owner-occupant, or a tenant stockholder occupant, or a possessory interest holder occupant, or a mobilehome owner-occupant, as the case may be, of the residential dwelling as to which postponement is claimed on the last day of the year designated in subdivision (b) or (c) of Section 20503, and who was 62 years of age or older by December 31 of the fiscal year for which postponement is claimed provided, for purposes of eligibility for postponement of taxes for the 1977–78 fiscal year, an individual must be 62 years of age or older by March 15, 1978.

(c) Where amounts have been postponed for any given fiscal year and the claimant continues to own and occupy the residential dwelling on December 31 of the calendar year in which such fiscal year begins, and the claimant sells such dwelling and buys a new residential dwelling in this state on or before December 31 of the following fiscal year and the new dwelling is the claimant's principal place of residence, then in such event, the claimant shall be deemed to be a qualified claimant for the purpose of this section.

SEC. 16. Section 20542 of the Revenue and Taxation Code is amended to read:

20542. (a) The Franchise Tax Board, pursuant to the provisions of Article 3 (commencing with Section 20561), of this chapter, shall provide assistance to the claimant based on a percentage of the property tax accrued and paid by the claimant on the residential dwelling as provided in Section 20543 or the statutory property tax equivalent pursuant to Section 20544. In case of an owner-claimant, the assistance shall be equal to the applicable percentage of property taxes paid on the full value of the residential dwelling up to, and including, thirty-four thousand dollars ($34,000). No assistance shall be allowed for property taxes paid on that portion of full value of a residential dwelling exceeding thirty-four thousand dollars ($34,000). No assistance shall be provided if the amount of the assistance claim is five dollars ($5) or less.

(b) For purposes of allowing assistance provided for by this section:

(1) (A) Only one owner-claimant from one household each year shall be entitled to assistance under this chapter. When two or more individuals of a household are able to meet the qualifications for an

owner-claimant, they may determine who the owner-claimant shall be. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(B) When two or more individuals pay rent for the same premises and each individual meets the qualifications for a renter-claimant, each qualified individual shall be entitled to assistance under this part.

For the purposes of this subparagraph, a husband and wife residing in the same premises shall be presumed to be one renter.

(2) Except as provided in paragraph (3), the right to file a claim shall be personal to the claimant and shall not survive his death; however, when a claimant dies after having filed a timely claim, the amount thereof may be disbursed to the surviving spouse and, if no surviving spouse, to any other member of the household who is a qualified claimant. If there is no surviving spouse or otherwise qualified claimant, the claim shall be disbursed to any other member of the household. In the event two or more individuals qualify for payment as either an otherwise qualified claimant or a member of the household, they may determine which of them will be paid. If they are unable to agree, the matter shall be referred to the Franchise Tax Board and its decision shall be final.

(3) If, after January 1 of the property tax fiscal year for which a claim may be filed, a claimant dies without filing a timely claim, a claim on behalf of such claimant may be filed by the surviving spouse within the filing period prescribed in subdivision (a) or (b) of Section 20563.

(4) If an individual postponed taxes for any given property tax fiscal year under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640), then any claim for assistance under this chapter for the same property tax fiscal year shall be filed by such individual (assuming all other eligibility requirements in this chapter are satisfied) and not an otherwise qualified member of the individual's household.

SEC. 17. Section 20564 of the Revenue and Taxation Code is amended to read:

20564. (a) If a lien for the assistance fiscal year has been acquired against the property, or, in the case of a mobilehome, against the certificate of title, of the claimant by reason of the claimant's use of a certificate of eligibility which was paid pursuant to Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2 of the Government Code, the net payment otherwise due such claimant shall first be applied by the Controller to reduce the obligation secured by such lien.

(b) If a lien has been reduced as provided in subdivision (a) and the Franchise Tax Board subsequently determines that the assistance allowed for such year was erroneous, the Franchise Tax Board shall notify the Controller who will make an appropriate adjustment to

the lien.

SEC. 18. Section 20583 of the Revenue and Taxation Code is amended to read:

20583. (a) "Residential dwelling" means a dwelling occupied as the principal place of residence of the claimant, and so much of the land surrounding it as is reasonably necessary for use of the dwelling as a home, owned by the claimant, the claimant and spouse, or by the claimant and either another individual eligible for postponement under this chapter or an individual described in subdivision (a), (b) or (c) of Section 20511 and located in this state. It shall include condominiums and mobilehomes which are assessed as realty for local property tax purposes. It also includes part of a multidwelling or multipurpose building and a part of the land upon which it is built. In the case of a mobilehome not assessed as real property which is located on land owned by the claimant, residential "dwelling" includes the land on which such mobilehome is situated and so much of the land surrounding it as reasonably necessary for use of the mobilehome as a home.

(b) As used in this chapter in reference to ownership interests in residential dwellings, "owned" includes (1) the interest of a vendee in possession under a land sale contract provided that the contract or memorandum thereof is recorded and only from the date of recordation of the contract or memorandum thereof in the office of the county recorder where the residential dwelling is located, (2) the interest of the holder of a life estate provided that the instrument creating the life estate is recorded and only from the date of recordation of the instrument creating the life estate in the office of the county recorder where the residential dwelling is located, but "owned" does not include the interest of any remainderman or holder of a reversionary interest in the residential dwelling, (3) the interest of a joint tenant or a tenant in common in the residential dwelling or the interest of a tenant where title is held in tenancy by the entirety or a community property interest where title is held as community property.

(c) For purposes of this chapter, the registered owner of a mobilehome shall be deemed to be the owner of the mobilehome.

(d) Except as provided in subdivision (c), and Chapter 3 (commencing with Section 20625), ownership must be evidenced by an instrument duly recorded in the office of the county where the residential dwelling is located.

(e) "Residential dwelling" does not include any of the following:

(1) Any residential dwelling in which the owners do not have an equity of at least 20 percent of the full value of the property as determined for purposes of property taxation at the time the claimant or authorized agent tenders to the tax collector for the purposes of postponement the certificate or certificates of eligibility described in Section 20602 and Section 20639.6.

(2) Any residential dwelling in which the claimant's interest is held pursuant to a contract of sale or under a life estate, unless such

claimant obtains the written consent of the vendor under the contract of sale, or the holder of the reversionary interest upon termination of the life estate for the postponement of taxes and the creation of a lien on the real property in favor of the state for amounts postponed pursuant to this act.

(3) Any residential dwelling on which the claimant does not receive a secured tax bill.

(4) Any residential dwelling in which the claimant's interest is held as a possessory interest, except as provided in Chapter 3.5 (commencing with Section 20640).

(5) (A) Except as provided in this section, any residential dwelling on which the property taxes, as defined in Section 20584, are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code area is delinquent at the time the application for postponement under this chapter is made.

(B) Any taxes or assessments described in subparagraph (A) which are delinquent on July 1, 1977, shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application for postponement under this chapter to postpone the payment of property taxes for the 1977–78 fiscal year, shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code; provided, however, that upon payment of delinquent taxes and assessments for fiscal year 1976–77 out of the amount appropriated by Section 16100, any delinquent penalties, interest, fees or other charges resulting from the delinquency of such taxes and assessments for fiscal year 1976–77 shall be canceled.

(C) For 1978–79 and thereafter, any taxes or assessments described in subparagraph (A) which became delinquent after the claimant was 62 and before the claimant first has established a lien pursuant to Section 16182 of the Government Code shall not disqualify an otherwise eligible dwelling for postponement under this chapter. An application to postpone taxes for 1978–79 or thereafter shall also constitute an application for the postponement of all such delinquent taxes and assessments, together with any penalties, interest, fees, or other charges resulting from such delinquency and such amounts shall, unless otherwise paid by the claimant, be paid out of the amount appropriated by Section 16100 of the Government Code and shall be added to and become part of the obligation secured by the lien provided by Section 16182 of the Government Code.

SEC. 19. Section 20585 of the Revenue and Taxation Code is

amended to read:

20585. Postponement shall not be allowed under this chapter or Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) if household income exceeds either of the following amounts:

(a) For the 1976 calendar year or for an approved fiscal year commencing within such calendar year, household income shall not exceed twenty thousand dollars ($20,000).

(b) For all subsequent calendar years and approved fiscal years, postponement shall not be allowed under this chapter, Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) if household income exceeds an amount determined as follows:

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

(2) The Controller shall compute an inflation adjustment factor by adding 100 percent to the larger of the California Consumer Price Index percentage increases furnished pursuant to paragraph (1).

(3) In 1978, the Franchise Tax Board shall multiply twenty thousand dollars ($20,000) by the inflation adjustment factor to determine the maximum allowable gross household income for the 1977 calendar year and for approved fiscal years commencing within such years. In 1979 and subsequent calendar years through and including 1983, the Controller shall multiply the maximum allowable household income determined for the preceding calendar year by the inflation adjustment factor to determine the maximum allowable household income for the applicable calendar year and approved fiscal years commencing within such calendar year. In determining the maximum allowable household income pursuant to this section, the Controller shall round such amount to the nearest hundred dollar amount.

(c) For calendar year 1984 and subsequent calendar years and for approved fiscal years commencing within those years, postponement shall not be allowed under this chapter, Chapter 3 (commencing with Section 20626), Chapter 3.3 (commencing with Section 20639), or Chapter 3 5 (commencing with Section 20640), if household income exceeds an amount determined as follows:

(1) For claimants who filed and qualified in the calendar year 1983, thirty-four thousand dollars ($34,000).

(2) For all other claimants, twenty-four thousand dollars ($24,000).

SEC. 20. Section 20586 of the Revenue and Taxation Code is amended to read:

20586. For the purposes of Chapter 2 (commencing with Section

20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), and Chapter 3.5 (commencing with Section 20640), only one claimant per household each year shall be entitled to postponement. When two or more individuals in a household are qualified as claimants, they may determine who the claimant shall be. Such decision is irrevocable. If the individuals are unable to agree, the matter shall be determined by the Controller and his decision shall be final.

SEC. 20.5. Section 20631 of the Revenue and Taxation Code is repealed.

SEC. 21. Chapter 3.3 (commencing with Section 20639) is added to Part 10.5 of Division 2 of the Revenue and Taxation Code, to read:

CHAPTER 3.3. SENIOR CITIZENS MOBILEHOME PROPERTY TAX POSTPONEMENT LAW

20639. This chapter shall be known and may be cited as the "Senior Citizens Mobilehome Property Tax Postponement Law."

20639.1. (a) Unless the context otherwise requires or unless otherwise provided in this chapter, the definitions given in Chapter 1 (commencing with Section 20501) and Chapter 2 (commencing with Section 20581) shall govern the construction of this chapter.

(b) Unless the context otherwise dictates or unless otherwise provided in this chapter, the provisions of Chapter 1 (commencing with Section 101) and Chapter 2 (commencing with Section 155) of Part 1 of Division 1 of this code, Section 2931c of the Civil Code, Chapter 4.5 (commencing with Section 14735) of Part 5.5 of Division 3 of Title 2 of the Government Code Chapter 6 (commencing with Section 16180) of Part 1 of Division 4 of Title 2 of the Government Code, Division 13 (commencing with Section 17000) of the Health and Safety Code, and Division 9 (commencing with Section 9109) of the Commercial Code shall be applicable to property tax postponements made pursuant to this chapter.

20639.2. As used in this part, "mobilehome" means a mobilehome as defined in Sections 18008 and 18211 of the Health and Safety Code which:

(a) Was first sold new on or after July 1, 1980; or,

(b) Was first sold new on or before June 30, 1980, and with respect to which the license fee required to be paid pursuant to Part 5 (commencing with Section 10701) of Division 2 has been delinquent for 120 days or more.

"Mobilehome," as used in this part, does not include a mobilehome which has become real property by being affixed to land on a permanent foundation system or otherwise and is taxed as all other real property is taxed.

20639.3. "Property taxes" means all ad valorem property taxes, special assessments, and other charges or user fees which are attributable to the residential dwelling on the county tax bill and the ad valorem property taxes, special assessments, or other charges or

user fees appearing on the tax bill of any chartered city which levies and collects its own property taxes.

20639.4. (a) Subject to the limitations provided in Chapter 1 (commencing with Section 20501) or Chapter 2 (commencing with Section 20581), a claimant may file with the Controller a claim for postponement of a sum equal to but not exceeding the amount of property taxes for the fiscal year for which the claim is made.

(b) Any mobilehome on which property taxes are delinquent at the time the application for postponement under this chapter is made or on which any other property tax or special assessment imposed by a special district or other tax code are delinquent at the time the application for postponement under this chapter is made shall not be eligible for postponement.

(c) The Controller shall mail to the claimant for due execution, the appropriate security instruments required by the Controller.

20639.5. The Controller may require security for the postponement of property taxes pursuant to this chapter, of the following:

(a) A security interest in the mobilehome in the form and manner prescribed by the Controller.

(b) Any other additional security interest created and perfected with respect to the rights of third persons in the manner provided by law for such type of security interest which the Controller deems necessary to protect the interest of the state with regard to the repayment of postponed amounts by the claimant or a deceased claimant's estate.

On the form supplied by the Controller, the claimant shall obtain the written consent of any legal owner if other than the claimant and the written consent of any junior lienholder. The consent shall be in such form and contain such provisions as the Controller shall prescribe, and shall provide for written notice by the legal owner and or junior lienholder to the Controller of the occurrence of a default by the claimant under the terms of an existing security agreement.

(c) The consent of all co-owners, if any, to the pledging of the mobilehome as security for the repayment of postponed property taxes.

20639.6. (a) Upon receipt of the information described in Section 20639.9, the Controller shall determine whether the state's interest would be adequately protected if postponement is granted, and if so, shall issue to the claimant a certificate of eligibility containing the name of the claimant, address of the residential dwelling on which the claimant has applied for property tax postponement, and such other information and in such form as the Controller shall prescribe. In the event that such residential dwelling is located in a chartered city which levies and collects its own taxes, the Controller shall issue a duplicate certificate of eligibility to pay all or any part of property taxes appearing on such city's tax bill.

(b) The Controller shall forward to the Department of Housing and Community Development a statement of lien notifying the

department that the mobilehome described in the statement has been approved for property tax postponement. The statement shall be in the form and contain such information as prescribed by the Controller.

(c) The department, upon receipt of such statement, shall amend the permanent title record of the mobilehome to record the fact that postponement has been approved.

(d) The Controller shall prescribe the form of certificates of eligibility to pay all taxes and assessments authorized by this chapter.

Upon or accompanying the certificates shall be a brief statement explaining that, those taxpayers whose property taxes are paid by a lender via an impound, trust, or other similar account should enter the total amount of each installment on the certificates and mail the certificates to the tax collector and that they will receive a refund check from the county or city in the amount they entered on the certificate, within 30 days following the date on which the installment is paid by the lender or the certificate of eligibility is received by the tax collector, whichever is later.

(e) When a certificate of eligibility has been signed by the claimant, the claimant's spouse, or authorized agent and countersigned by the person authorized to collect property taxes or assessments or the local agency, such certificate shall constitute a written promise on the part of the State of California to pay the sum of money specified therein and the signed and countersigned certificate shall be deemed a negotiable instrument for the sole purpose of the payment of property taxes owing in the name of the claimant or the claimant's spouse for purposes of all laws of this state.

(f) A certificate of eligibility shall be valid for the duration prescribed thereon by the Controller.

(g) The Controller shall issue certificates of eligibility at such times as the Controller determines will best implement the purpose of this chapter.

(h) The Controller shall prescribe the manner in which a claimant eligible under this chapter, who has been issued a certificate of eligibility which is lost or destroyed prior to being filed with the local agency may obtain a duplicate copy of the certificate as a replacement. Under such conditions as may be prescribed by the Controller, a duplicate copy shall be deemed as having been filed with the local agency as of the date a claimant requests issuance of such duplicate copy.

20639.7. The Controller shall prescribe the manner in which a claimant eligible under this chapter, who for any reason is incapacitated, may appoint his or her spouse or an authorized agent, or have any such person appointed for the claimant, for all purposes of claiming and using certificates of eligibility for the postponement of property taxes.

20639.8. The claim for postponement shall be filed after May 15 of the calendar year in which the fiscal year for which postponement is claimed begins, and on or before December 10 of such fiscal year.

20639.9. Each claimant applying for postponement under this chapter shall file a claim under penalty of perjury with the Controller on a form supplied by the Controller. The claim shall contain all of the following:

(a) Evidence acceptable to the Controller that the person was a senior citizen claimant.

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

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

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

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

(f) A copy of the Certificate of Title issued by the Department of Housing and Community Development.

(g) A copy of the registration card issued by the Department of Housing and Community Development.

(h) Other information required by the Controller to establish eligibility.

20639.10. The Controller shall maintain a record of all persons who have received postponement amounts pursuant to this chapter. Such record shall include the name and address of the claimant, the name and address of the legal owner of the mobilehome, the name and address of any other party whose consent is required by this chapter, and any other information deemed necessary by the Controller for administration purposes.

20639.11. All amounts postponed pursuant to this chapter shall be due if any of the following occurs:

(a) The claimant ceases to occupy the residential dwelling as the principal place of residence, sells or otherwise disposes of his or her mobilehome.

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

(c) The failure of a claimant to perform those acts required by the legal owner or junior lienholder.

(d) The claimant allows any subsequent taxes to remain unpaid or to be transferred to the unsecured roll.

(e) Postponement was erroneously allowed because eligibility requirements were not met.

20639.12 If the Controller determines that amounts postponed under this chapter have become due and payable, the Controller may take any or all of the following actions:

(a) Demand payment of such amount from the claimant, the estate of any decedent claimant, or any person who was a cotenant

with the claimant pursuant to the registration card.

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

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

(d) Utilize any or all of the other enforcement and foreclosure provisions set forth in Article 3 (commencing with Section 16200) of Chapter 6 of Part 1 of Division 4 of Title 2 of the Government Code, as may be applicable

SEC. 22. Section 20641 of the Revenue and Taxation Code is amended to read:

20641. Forms filed pursuant to this part shall not be under oath but shall contain, or be verified by, a written declaration that they are made under the penalty of perjury. All forms filed pursuant to Chapter 1 (commencing with Section 20501) shall require such information as the Franchise Tax Board may from time to time prescribe, and shall be filed with the Franchise Tax Board. The Franchise Tax Board shall prepare blank forms for the claimant and shall distribute them throughout the state and furnish them upon application. All forms filed pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640), shall require such information as the Controller may from time to time prescribe, shall be filed with the Controller, and the Controller shall prepare such blank forms for the claimant and shall distribute them throughout the state and furnish them upon application.

SEC. 23. Section 20641.5 of the Revenue and Taxation Code is amended to read:

20641.5. If the Controller determines that good cause exists, a reasonable extension for filing a claim under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) may be granted. However, no extension shall be granted beyond the fiscal year for which postponement is claimed.

SEC. 24. Section 20643 of the Revenue and Taxation Code is amended to read:

20643. If any claimant fails or refuses to furnish any information requested in writing by the Franchise Tax Board, pursuant to this part, Chapter 1 (commencing with Section 20501), or by the Controller, pursuant to Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) or files a fraudulent claim, the assistance or postponement authorized by this part shall be disallowed.

SEC. 25. Section 20645.5 of the Revenue and Taxation Code is amended to read:

20645.5. If a postponement claim under Chapter 2 (commencing

with Section 20581), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640) is filed timely but before delinquency date of the first or second installment of property taxes, then any delinquent penalties and interest for such fiscal year shall be canceled unless the failure to perfect the claim was due to willful neglect on the part of the claimant or representative. In the event of such willful neglect, the certificates of eligibility for such fiscal year can be used to pay delinquent taxes only if accompanied by sufficient amounts to pay the delinquent interest and penalties.

SEC. 26. Section 20645.6 of the Revenue and Taxation Code is amended to read:

20645.6. If the Controller denies a postponement claim under Chapter 2 (commencing with Section 20581), Chapter 3 (commencing with Section 20625), Chapter 3.3 (commencing with Section 20639), or Chapter 3.5 (commencing with Section 20640), and such denial is reversed after appeal pursuant to Section 20645.1, the Controller shall issue a warrant to the claimant, if the taxes for the fiscal year have been paid, for the amount of such taxes. If the taxes for the fiscal year are delinquent, any resulting penalties or interest shall be canceled.

SEC. 27. The provisions of this act shall apply to property taxes due for the 1984–85 fiscal year and fiscal years thereafter.

SEC. 28. There is hereby appropriated from the Mobilehome-Manufactured Home Revolving Fund to the Department of Housing and Community Development an amount not to exceed ten thousand dollars ($10,000) for the initial implementation costs incurred by that department pursuant to this act.

SEC. 29. 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. 30. 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 1052

An act making an appropriation for the payment of certain claims against the State of California, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 24, 1983 Filed with Secretary of State September 26, 1983.]

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

SECTION 1. The sum of twenty-five million eight hundred forty-eight thousand two hundred ninety-seven dollars ($25,848,297) is hereby appropr ated from the General Fund for the payment of claims for reimbursement of state-mandated costs filed pursuant to Section 2231 of the Revenue and Taxation Code, as follows:

(a) One hundred twenty-five thousand dollars ($125,000) to the Controller for payment of claims of counties seeking reimbursable state-mandated costs incurred under Chapter 102 of the Statutes of 1981, Chapter 1163 of the Statutes of 1981, and Department of Health Services All-Coun:y Letters for the 1981–82, 1982–83, and 1983–84 fiscal years.

These funds shall not be available for disbursement by the Controller until such time as the State Board of Control amends its parameters and guidelines to require each county to pursue reimbursement for its administrative cost from the estate of the deceased Medi-Cal recipient before seeking reimbursement under Section 2231 of the Revenue and Taxation Code.

(b) Twenty-five million six hundred ninety thousand four hundred thirty-five dollars ($25,690,435) to the Controller for the payment of claims of school districts filed pursuant to Section 42243.6 of the Education Code for the 1981–82 fiscal year.

(c) Thirty-two thousand eight hundred sixty-two dollars ($32,862) to the State Board of Control for payment of a claim of the Merced County Superintendent of Schools for the reimbursement of costs incurred under Chapter 961 of the Statutes of 1975 for the 1977–78 fiscal year.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to settle local government claims against the state for mandated costs, to end hardships to local governments, and to comply with the provisions of Article XIII B of the California Constitution, it is necessary for this act to take effect immediately.

CHAPTER 1053

An act to amend Section 17740 of, and to add Section 17740.5 to, the Education Code, relating to school buildings.

[Approved by Governor September 25, 1983 Filed with Secretary of State September 26, 1983]

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 one and one-half 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. Section 17740.5 is added to the Education Code, to read:

17740.5. Notwithstanding any other provision of this article, the board shall exclude the area of enclosed stairs and appropriate landings for each floor level served from the computation of the allowable building area of multistory buildings for any applicant school district.

CHAPTER 1054

An act to add Chapter 2 (commencing with Section 21000) to Part 3 of Division 2 of the Public Contract Code, relating to public agencies, and making an appropriation therefor.

[Approved by Governor September 25, 1983. Filed with Secretary of State September 26, 1983]

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

SECTION 1. Chapter 2 (commencing with Section 21000) is added to Part 3 of Division 2 of the Public Contract Code, to read:

CHAPTER 2. BIDDING ON PUBLIC CONTRACTS

Article 1. Legislative Intent and Definitions

21000. This chapter shall be known and may be cited as the "Uniform Public Construction Cost Accounting Act."

21001. The Legislature finds and declares that there is a statewide need to promote uniformity of the cost accounting standards and bidding procedures on construction work performed or contracted by public entities in the state. This chapter provides for the development of cost accounting standards and an alternative method for the bidding of public works projects by public entities.

21002. (a) "Public agency" for purposes of this chapter, means a city, county, city and county, including chartered cities and chartered counties, any special district, and any other agency of the state for the local performance of governmental or proprietary functions within limited boundaries.

(b) "Representatives of the construction industry" for purposes of this chapter, means a general contractor, subcontractor, or labor representative with experience in the field of public works construction.

(c) "Public project" means any of the following:

(1) Construction, reconstruction, erection, alteration, renovation,

improvement, demolition, and repair work involving any publicly owned, leased, or operated facility.

(2) Painting or repainting of any publicly owned, leased, or operated facility.

(3) In the case of a publicly owned utility system, "public project" shall include only the construction, erection, improvement, or repair of dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(d) "Public project" does not include maintenance work. For purposes of this section, "maintenance work" includes all of the following:

(1) Routine, recurring, and usual work for the preservation or protection of any publicly owned or publicly operated facility for its intended purposes.

(2) Minor repainting.

(3) Resurfacing of streets and highways at less than one inch.

(4) Landscape maintenance, including mowing, watering, trimming, pruning, planting, replacement of plants, and servicing of irrigation and sprinkler systems.

(5) Work performed to keep, operate, and maintain publicly owned water, power, or waste disposal systems, including, but not limited to, dams, reservoirs, powerplants, and electrical transmission lines of 230,000 volts and higher.

(e) For purposes of this chapter, "facility" means any plant, building, structure, ground facility, utility system, subject to the limitation found in paragraph (3) of subdivision (c), real property, streets and highways, or other public work improvement.

Article 2. California Uniform Construction Cost Accounting Commission

21100. There is hereby created the California Uniform Construction Cost Accounting Commission. The commission is comprised of 14 members appointed by the Controller as follows:

(a) Three members who shall each have at least 10 years of experience with, or providing professional services to, a general contracting firm engaged, during that period, in public works construction in California.

(b) Two members who shall each have at least 10 years of experience with, or providing professional services to, a firm or firms engaged, during that period, in subcontracting for public works construction in California.

(c) Two members who shall each be a member in good standing of, or have provided professional services to, an organized labor union with at least 10 years of experience in public works construction in California.

(d) Seven members who shall each be experienced in, and knowledgeable of, public works construction under contracts let by public agencies; two each representing cities, counties, respectively,

and two representing school districts (one with an average daily attendance over 25,000 and one with an average daily attendance under 25,000), and one member representing a special district. At least one of the two county representatives shall be a county auditor or his or her designee.

21101. The Controller, in an effort to select highly qualified commission members, shall solicit from organized representatives of the construction industry and public agencies recommendations for appointments to the commission.

21102. At least one commission member of the six representing the construction industry and at least one of the six representing public agencies shall have previous accounting experience.

21103. The commission members shall select a chairperson from among its membership. The chairperson shall serve as chair for a term of one year from the date of selection or February 1, whichever comes first. In no event shall two consecutive chairpersons be appointees representing either the construction industry or public agencies.

21104. (a) The members of the commission shall hold office for terms of three years, and until their successors are appointed, except as otherwise provided for in this section.

(b) In the case of members initially appointed by the Controller, two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1985; two representing the construction industry and two representing public agencies shall be appointed to serve until July 1, 1986; and three representing the construction industry and three representing public agencies shall be appointed to serve until July 1, 1987.

(c) Members may be reappointed for subsequent terms of three years.

21105. (a) The Controller shall make available for the conduct of the commission's business, such staff and other support as does not conflict with the accomplishment of the other business of the office of the Controller.

(b) Each member of the commission shall serve without compensation, but shall be reimbursed for travel and other expenses necessarily incurred in the performance of the member's duties.

(c) The commission may accept grants from federal, state, or local public agencies, or from private foundations or individuals, in order to assist it in carrying out its duties, functions, and powers under this chapter.

21106. The commission shall meet not less than once each year, at a time and place chosen by its membership.

21107. The commission shall do all of the following:

(a) After due deliberation and study, recommend for adoption by the Controller, uniform construction cost accounting procedures for implementation by public agencies in the performance of, or in contracting for, construction on public projects. The procedures shall, to the extent deemed feasible and practicable by the

commission, incorporate, or be consistent with construction cost accounting procedures and reporting requirements utilized by state and federal agencies on public projects, and be uniformly applicable to all public agencies which elect to utilize the uniform procedures. As part of its deliberations and review, the commission shall take into consideration relevant provisions of Office of Management and Budget Circular A-76.

(b) Recommend for adoption by the Controller, procedures and standards for the periodic evaluation and adjustment, as necessary, of the monetary limits specified in Section 21202.

(c) Submit its recommendations to the Controller not later than January 1, 1985. The commission shall report to the Legislature, no later than June 30, 1984, concerning its progress in the development and implementation of the uniform construction cost accounting procedures. Thereafter, the commission shall make an annual report to the Legislature with respect to its activities and operations, together with those recommendations as it deems necessary.

21108 The Controller shall, upon receipt of the commission's recommendations, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission by the commission.

21109. Upon determining that the recommended uniform construction cost accounting procedures will serve the best interests of the state and public agencies, and upon formal adoption by the Controller, the Controller shall promulgate the uniform procedure for all public agencies electing to participate, together with instructions for their adoption and implementation by any public agency.

21110. In accordance with procedures and standards adopted pursuant to Section 21107, every five years the commission shall consider whether there have been material changes in public construction costs and make recommendations to the Controller regarding adjustments in the monetary limits prescribed by Section 21202, but in no case shall the amount, as adjusted, be less than fifteen thousand dollars ($15,000). Any adjustment shall be effective beginning with the fiscal year which commences not less than 60 days following the Controller's notification to affected public agencies of the adjustment.

Article 3. Public Projects: Alternative Procedure

21200. This article applies only to a public agency whose governing board has by resolution elected to become subject to the uniform construction cost accounting procedures set forth in Article 2 (commencing with Section 21100) and which has notified the Controller of that election. In the event of a conflict with any other provision of law relative to bidding procedures, this article shall apply to any public agency which has adopted a resolution and so notified the Controller.

21201. Nothing in this article shall prohibit a board of supervisors or a county road commissioner from utilizing, as an alternative to the procedures set forth in this article, the procedures set forth in Article 25 (commencing with Section 20390) of Chapter 1.

21202. (a) Public projects of fifteen thousand dollars ($15,000) or less may be performed by the employees of a public agency by force account or by negotiated contract.

(b) Public projects of twenty-five thousand dollars ($25,000) or less may be let to contract by purchase order procedures as set forth in this article.

(c) Public projects of more than twenty-five thousand dollars ($25,000) but less than one hundred thousand dollars ($100,000), may be let to contract by informal bidding procedures.

(d) Public projects of one hundred thousand dollars ($100,000) or more shall, except as otherwise provided in this article, be let to contract by formal bidding procedure.

21203. It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

21204. (a) Each public agency subject to this article shall adopt ordinances or regulations providing for formal and informal bidding procedures as required by this article for public projects conducted by that public agency.

(b) Each public agency which elects to become subject to the uniform construction accounting procedures set forth in Article 2 (commencing with Section 21100), shall enact a purchase order ordinance to govern the selection of contractors to perform public projects pursuant to subdivision (b) of Section 21202. The ordinance shall include all of the following:

(1) The public agency shall maintain a list of all qualified contractors, identified according to categories of work.

(2) Before awarding a public project contract, at least three bids must be received by the public agency unless any of the following occurs:

(A) The product or service is proprietary.

(B) All of the qualified contractors on the list have been solicited, but less than three bids have been received.

(3) The public agency shall solicit a sufficient number of qualified contractors from the list in order to obtain three bids.

(4) If at least three bids are not obtained as a result of the first bidding procedure, the public agency shall solicit qualified contractors until either three bids are received or all the contractors on the list have been solicited.

(5) Nothing shall prohibit the public agency from soliciting all contractors on the list for a particular project.

21205. In cases of great emergency, as determined by the governing body of the public agency, including, but not limited to, states of emergency defined in Section 8558 of the Government

Code, when repair or replacements are necessary to permit the continued conduct of the operation or services of a public agency or to avoid danger to life or property, the governing body by majority vote, may proceed at once to replace or repair any public facility without adopting plans, specifications, strain sheets, or working details, or giving notice for bids to let contracts. The work may be done by day labor under the direction of the governing body, by contract, or by a combination of the two. The governing body, by majority vote, may delegate to the appropriate county administrative officer or city manager the power to declare a public emergency subject to confirmation by the governing body, by a four-fifths vote, at its next meeting.

21206. Notice inviting informal bids shall be published at least once and publication shall be completed at least 24 hours before the time scheduled for opening of the bids. The public agency may cause the notice to be printed as display advertising in such form and style as it deems appropriate. The notice shall describe the project in general terms and state a closing date and time for submission of the informal bids. Publication of notice pursuant to this section shall be in a newspaper of general circulation printed and published within the jurisdiction of the public agency, or, if there is no newspaper printed and published within the jurisdiction of the public agency, in a newspaper of general circulation which is circulated in the jurisdiction of the public agency, and in addition, in a construction trade publication circulated within the jurisdiction of the public agency; or, if there is no newspaper which is circulated within the jurisdiction of the public agency, publication shall be by posting the notice in at least three public places within the jurisdiction of the public agency as have been designated by ordinance or regulation of the public agency as places for the posting of its notices. In addition to notice required by this section, the public agency may give other notice as it deems proper.

21207. Notice inviting formal bids shall state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice shall be published at least 30 days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of the public agency, and also in a construction trade publication circulated within the jurisdiction of the public agency; or, if there is no newspaper or construction trade publication printed and published within the jurisdiction of the public agency, in a newspaper of general circulation which is circulated within the jurisdiction of the public agency, or, if there is no newspaper or construction trade publication which is circulated within the jurisdiction of the public agency, publication shall be by posting the notice in at least three places within the jurisdiction of the public agency as have been designated by ordinance or regulation of the public agency as places for the posting of its notices. In addition to notice required by this section, the public agency may give such other notice as it deems proper.

21208. (a) In its discretion, the public agency may reject any bids presented. If after the first invitation for bids all bids are rejected, after reevaluating its cost estimates of the project, the public agency shall have the option of either of the following:

(1) Abandoning the project or readvertising for bids in the manner described by this article.

(2) By passage of a resolution by a four-fifths vote of its governing body declaring that the project can be performed more economically by the employees of the public agency, may have the project done by force account without further complying with this article.

(b) If a contract is awarded, it shall be awarded to the lowest responsible bidder. If two or more bids are the same and the lowest, the public agency may accept the one it chooses.

(c) If no bids are received, the project may be performed by employees of the public agency by force account, or by informal bidding procedures set forth in Section 21204 without further complying with this article.

21209. The governing body of the public agency shall adopt plans, specifications, and working details for all public projects of more than one hundred thousand dollars ($100.000).

21210. Any person may examine the plans, specifications, or working details, or all of these, adopted by the public agency for any project.

21211. This article does not apply to the construction of any public building used for facilities of juvenile forestry camps or juvenile homes, ranches, or camps established under Article 15 (commencing with Section 880) of Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, if a major portion of the construction work is to be performed by wards of the juvenile court assigned to those camps, ranches, or homes.

21212. The commission shall review the accounting procedures of any participating public agency where an interested party presents evidence that the work undertaken by the public agency falls within any of the following categories:

(a) Is to be performed by a public agency after rejection of all bids, claiming work can be done less expensively by the public agency.

(b) Exceeded the force account limits.

(c) Has been improperly classified as maintenance.

21213. In those circumstances as set forth in subdivision (a) of Section 21212, a request for commission review shall be by letter received by the commission not later than five days from the date the public agency has rejected all bids. In those circumstances set forth in subdivision (b) or (c) of Section 21212, a request for commission review shall be by letter received by the commission not later than five days from the date an interested party formally complains to the public agency. The commission review shall commence immediately and conclude within 30 days from the receipt of the request for commission review. During the review of a project that falls within

subdivision (a) of Section 21212, the agency shall not proceed on the project until a final decision is received by the commission.

21214. The commission shall prepare written findings. Should the commission find that the provisions of this chapter or of the uniform cost accounting procedures provided for in this chapter were not complied with by the public agency, the following steps shall be implemented by that agency:

(a) On those projects set forth in subdivision (a) of Section 21212, the public agency has the option of either (1) abandoning the project, or (2) awarding the project to the lowest responsible bidder.

(b) On those projects set forth in subdivision (b) or (c) of Section 21212, the public agency shall present the commission's findings to its governing body and that governing body shall conduct a public hearing with regard to the commission's findings within 30 days of receipt of the findings.

21215. (a) No later than January 1, 1985, the commission shall recommend, for adoption by the Controller, written procedures implementing the accounting procedures review provided for in this article.

(b) The Controller shall, upon receipt of the commission's recommendation, review and evaluate the recommended procedures and either formally adopt or reject the recommended procedures within 90 days of submission of the commission.

SEC. 2. The sum of thirty-seven thousand five hundred dollars ($37,500) is hereby appropriated from the General Fund to the Controller for the purposes of Chapter 2 (commencing with Section 21000) of Part 3 of Division 2 of the Public Contract Code.

CHAPTER 1055

An act to add Article 4 (commencing with Section 25850) to Chapter 8 of Part 2 of Division 2 of Title 3 of the Government Code, and to amend Section 2426 of, to add Article 5.1 (commencing with Section 2315) to Chapter 5 of Division 3 of, and to add Article 4.1 (commencing with Section 2877) to Chapter 8 of Division 3 of, the Health and Safety Code, relating to mosquito abatement.

[Approved by Governor September 25, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. This act shall be known as the Emergency Mosquito Abatement Funding Act of 1983.

SEC. 2. Article 4 (commencing with Section 25850) is added to Chapter 8 of Part 2 of Division 2 of Title 3 of the Government Code, to read:

Article 4. Standby Charges for Public Health Emergencies

25850. The Legislature finds and declares that unabated outbreaks of mosquitoes pose a serious threat to the public health and safety and that public agencies, including counties, must be prepared to abate extraordinary outbreaks of mosquitoes. The Legislature further finds and declares that to protect the public health and safety from unabated outbreaks of mosquitoes, it is necessary to enact this article to provide counties with the ability to abate mosquitoes.

25851. (a) On or before the third Monday of August in each year, the board of supervisors may adopt an ordinance to fix an emergency mosquito abatement standby charge in the county or any portion of the county, whether incorporated or unincorporated.

(b) The ordinance shall establish schedules varying the charges according to land uses, water uses, and degree of hazard. The emergency mosquito abatement standby charge shall not exceed ten dollars ($10) per year for each parcel of land on which the charge is levied.

(c) The ordinance shall not apply to any parcel which is subject to an emergency mosquito abatement standby charge ordinance adopted by a mosquito abatement district, vector control district, or pest abatement district, nor shall it apply to any parcel which is owned by a local agency, as defined by Section 2211 of the Revenue and Taxation Code.

25852. (a) All revenues generated from the emergency mosquito abatement standby charge ordinance shall be deposited in a separate emergency mosquito abatement trust account in the county treasury, except that the county may retain an amount not to exceed the actual costs of performing the duties required by Section 25853.

(b) The trust account shall not exceed fifty thousand dollars ($50,000) or 25 percent of the county's expenditures for the operation and maintenance of its mosquito abatement program in the immediately preceding fiscal year, whichever is greater, except that the trust account may exceed these limits by the amount of interest earned.

(c) (1) The emergency mosquito abatement trust account shall be used solely for the abatement and extermination of mosquitoes, except that the county may use 50 percent of any interest earned on the trust account for its regular mosquito abatement programs. However, the board of supervisors may, on or before June 30, appropriate not more than 50 percent of any interest earned on the trust account to the Mosquitoborne Disease Surveillance Account in the General Fund, which is hereby created. Counties which agree to contribute to the Mosquitoborne Disease Surveillance Account shall enter into a cooperative agreement pursuant to subdivision (c) of Section 2426 of the Health and Safety Code. The funds deposited in the Mosquitoborne Disease Surveillance Account shall be available for expenditure, when appropriated by the Legislature, by the State

Department of Health Services to support those mosquitoborne disease field and laboratory surveillance activities which are needed to carry out the provisions of this article. The department shall not commit expenditures for such mosquitoborne disease field and laboratory surveillance activities unless the funds deposited in the Mosquitoborne Disease Surveillance Account are sufficient for the ensuing fiscal year.

(2) If the Department of Finance determines that the amount in the Mosquitoborne Disease Surveillance Account exceeds the amount required for the ensuing fiscal year, plus a reserve of fifty thousand dollars ($50,000), the excess shall be returned to the counties contributing the same in the proportion that the counties contributed it. The funds shall be deposited in the county emergency mosquito abatement trust account for use as otherwise provided in this article.

(3) The Legislature finds and declares that the use of county funds for mosquitoborne disease surveillance serves a public purpose of a county, as well as a public purpose of the state, within the meaning of Section 6 of Article XVI of the California Constitution.

(d) The county shall not spend any part of the principal of the emergency mosquito abatement trust account unless the State Director of Health Services has declared that the public health and safety are, or may be, threatened by an unabated outbreak of mosquitoes in a portion or all of the territory within the county, or that conditions require emergency preventive mosquito abatement work, and that the expenditure is necessary to protect the public health and safety.

(e) The department shall adopt emergency regulations to implement, interpret, or make specific the provisions of this article, including, but not limited to, conditions under which the principal of the emergency mosquito abatement trust account may be expended and criteria for determining if the county has established adequate emergency mosquito abatement procedures.

(f) Nothing in this section shall be construed as an alternative for the abatement procedures authorized by Article 4 (commencing with Section 2270) of Chapter 5 of Division 3 of the Health and Safety Code.

(g) Nothing in this section shall be construed as an alternative for the abatement procedures authorized by a county ordinance, or for an agreement for mosquito abatement between a county and a parcel owner.

25853. (a) On or before the third Monday in August in each year, the board of supervisors shall furnish in writing to the county auditor a description of each parcel of land within the county upon which a standby charge is to be levied and collected for the current fiscal year, together with the amount of standby charge fixed by the board on each parcel of land.

(b) The board of supervisors, at the time and in the manner required by law for the levying of taxes for county purposes, shall

levy the standby charges in the amounts for the respective parcels fixed by the board.

(c) All county officers charged with the duty of collecting taxes shall collect the standby charges with the regular tax payments to the county. The charges shall be paid to the emergency mosquito abatement trust account.

(d) Charges fixed by the board shall be a lien on all the property benefited thereby. Liens for the charges shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

25854. If the board of supervisors has adopted an ordinance to fix an emergency mosquito abatement standby charge, no state agency shall alter or deny priority for an allocation of funds to the county solely because the board has an emergency mosquito abatement trust account.

SEC. 3. Article 5.1 (commencing with Section 2315) is added to Chapter 5 of Division 3 of the Health and Safety Code, to read:

Article 5.1. Standby Charges for Public Health Emergencies

2315. The Legislature finds and declares that unabated outbreaks of mosquitoes pose a serious threat to the public health and safety and that public agencies, including mosquito abatement districts and vector control districts, must be prepared to abate extraordinary outbreaks of mosquitoes. The Legislature further finds and declares that to protect the public health and safety from unabated outbreaks of mosquitoes, it is necessary to enact this article to provide mosquito abatement districts and vector control districts with the ability to abate mosquitoes.

2316. (a) On or before the third Monday of August in each year, the district may adopt an ordinance to fix an emergency mosquito abatement standby charge in the district or any portion of the district.

(b) The ordinance shall establish schedules varying the charges according to land uses, water uses, and degree of hazard The emergency mosquito abatement standby charge shall not exceed ten dollars ($10) per year for each parcel of land on which the charge is levied.

(c) Any ordinance to fix an emergency mosquito abatement standby charge shall be adopted pursuant to the provisions of Article 7 (commencing with Section 25120) of Division 2 of Title 3 of the Government Code. The ordinance shall be subject to the provisions of Chapter 4 (commencing with Section 5150) of Division 5 of the Elections Code.

(d) The ordinance shall not apply to any parcel which is owned by a local agency, as defined in Section 2211 of the Revenue and Taxation Code.

2317. (a) All revenues generated from the emergency mosquito

abatement standby charge ordinance shall be deposited in a separate emergency mosquito abatement trust fund in the county treasury of the county in which the district is organized, except that the county may retain an amount not to exceed the actual costs of performing the duties required by Section 2318.

(b) The trust fund shall not exceed fifty thousand dollars ($50,000) or 25 percent of the district's expenditures for operations and maintenance in the immediately preceding fiscal year, whichever is greater, except that the trust fund may exceed these limits by the amount of interest earned.

(c) (1) The emergency mosquito abatement trust fund shall be used solely for the abatement and extermination of mosquitoes, as provided by Section 2270, except that the district may use 50 percent of any interest earned on the trust fund for the general purposes of the district. Not more than 50 percent of any interest earned on the trust fund may be appropriated for deposit on or before June 30 of each fiscal year in the Mosquitoborne Disease Surveillance Account in the General Fund, created by Section 25852 of the Government Code. Districts which agree to contribute to the Mosquitoborne Disease Surveillance Account shall enter into a cooperative agreement pursuant to subdivision (c) of Section 2426. The funds deposited in the state account, when appropriated by the Legislature, shall be used by the State Department of Health Services to support those mosquitoborne disease field and laboratory surveillance activities which are needed to carry out the provisions of this article. The department shall not commit expenditures for such mosquitoborne disease field and laboratory surveillance activities unless the funds deposited in the Mosquitoborne Disease Surveillance Account are sufficient for the ensuing fiscal year. If the amount of the Mosquitoborne Disease Surveillance Account exceeds the amount required for the ensuing fiscal year, plus a reserve of fifty thousand dollars ($50,000), the excess shall be credited to the participating districts as a reduction in the amount deposited in the Mosquitoborne Disease Surveillance Account for the ensuing fiscal year.

(2) The Legislature finds and declares that the use of district funds for mosquitoborne disease surveillance serves a public purpose of a district, as well as a public purpose of the state, within the meaning of Section 6 of Article XVI of the California Constitution.

(d) The district shall not spend any part of the principal of the emergency mosquito abatement trust fund unless the State Director of Health Services has declared that the public health and safety are, or may be, threatened by an unabated outbreak of mosquitoes in a portion or all of the territory within the district, or that conditions require emergency preventive mosquito abatement work, and that the expenditure is necessary to protect the public health and safety.

(e) The department shall adopt emergency regulations to implement, interpret, or make specific the provisions of this article, including, but not limited to, conditions under which the principal

of the emergency mosquito abatement trust fund may be expended, and criteria for determining if a district has established adequate emergency mosquito abatement procedures.

(f) Nothing in this section shall be construed as an alternative for the abatement procedures authorized by Article 4 (commencing with Section 2270).

2318. (a) On or before the third Monday in August in each year, the board of trustees 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 county upon which a standby 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.

(b) The board of supervisors, at the time and in the manner required by law for the levying of taxes for county purposes, shall levy the standby charges in the amounts for the respective parcels fixed by the board of trustees.

(c) All county officers charged with the duty of collecting taxes shall collect district standby charges with the regular tax payments to the county. The charges shall be paid to the district's emergency mosquito abatement trust fund.

(d) Charges fixed by the district shall be a lien on all the property benefited thereby. Liens for the charges shall be of the same force and effect as liens for taxes, and their collection may be enforced by the same means as provided for the enforcement of liens for county taxes.

2319. If the district has adopted an ordinance to fix an emergency mosquito abatement standby charge, no state agency or board of supervisors shall alter or deny priority for an allocation of funds to the district solely because the district has an emergency mosquito abatement trust fund.

SEC. 4. Section 2426 of the Health and Safety Code is amended to read:

2426. (a) The state department may enter into a cooperative agreement with any local district or other public agency engaged in the work of controlling mosquitoes, gnats, flies, other insects, rodents, or other vectors and pests of public health importance, in such areas and under such terms, conditions, and specifications as the director may prescribe.

(b) Such agreement may provide for financial assistance on behalf of the state and for the doing of all or any portion of the necessary work by either of the contracting parties, except that in no event shall the state department agree that the state's contribution shall exceed 50 percent of the total cost of any acceptable plan.

(c) The agreement may provide for contributions by the local district or other public agency to the Mosquitoborne Disease Surveillance Account.

SEC 5. Article 4.1 (commencing with Section 2877) is added to Chapter 8 of Division 3 of the Health and Safety Code, to read:

Article 4.1. Standby Charges for Public Health Emergencies

2877. The Legislature finds that unabated outbreaks of mosquitoes pose a serious threat to the public health and safety. The Legislature further finds that public agencies, including pest abatement districts, must be prepared to abate extraordinary outbreaks of mosquitoes. The Legislature further finds and declares that to protect the public health and safety from unabated outbreaks of mosquitoes, it is necessary to enact this article to provide pest abatement districts with the ability to abate mosquitoes.

2878. A pest abatement district may adopt an ordinance to fix an emergency mosquito abatement standby charge pursuant to the provisions of Article 5.1 (commencing with Section 2315) of Chapter 5, except to the extent that the provisions of that article conflict with the provisions of this chapter, in which case the provisions of this chapter shall be in addition to the provisions of that 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 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. 7. The State Director of Health Services shall adopt regulations implementing the provisions of this act as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Notwithstanding the provisions of Chapter 3 5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, emergency regulations adopted by the Department of Health Services in order to implement the provisions of this act shall not be subject to the review and approval of the Office of Administrative Law. These regulations shall become effective immediately upon filing with the Secretary of State.

CHAPTER 1056

An act to amend Section 11862 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Section 11862 of the Health and Safety Code is amended to read:

11862. (a) There is in state government a State Advisory Board on Drug Programs 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) Initial appointments to the advisory board shall be made as follows:

(1) The Governor shall appoint two members for one-year terms, two members for two-year terms. and one member for a three-year term.

(2) The speaker shall appoint two members for one-year terms, one member for a two-year term, and two members for three-year terms.

(3) The Senate Rules Committee shall appoint one member for a one-year term, two members for two-year terms, and two members for three-year terms.

(4) Subsequent appointments shall be made as prescribed in subdivision (a) 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 drug problems, and shall include representatives of law enforcement agencies, public drug programs, private drug programs, education, and the general public. It is the intent of the Legislature that the appointing powers make appointments that include representatives of nongovernmental organizations or groups and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, from various economic, social, and occupational groups, and allow for the geographic distribution of members throughout the state. Representatives from public and private drug prevention or treatment programs shall not comprise more than 33⅓ percent of the total membership. Such members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board.

(d) The board shall constitute the drug abuse prevention advisory council as described in federal Public Laws 92-255 and 94-237, as amended. In the interest of continuity relating to the functions of the board pursuant to subdivision (j), those members of the former Technical Advisory Committee/Drug Abuse Prevention Advisory Council reconstituted by this part, and who have remaining terms of one or two years, shall be considered in the appointments under this section.

(e) 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.

(f) The members shall select the chair of the board annually and adopt by-laws as appropriate to carry out their duties.

(g) 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.

(h) The board shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(1) 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 that the director refers to it, or that the board may raise, encourage public understanding of the nature of drug problems, and encourage support throughout the state for the development and implementation of effective drug programs. Upon request of the chair of the board, the department shall respond in writing to the board regarding each of its recommendations.

(2) Periodically review drug abuse services in California.

(3) Recommend to the director rules, regulations, and standards for the administration of this division.

(4) Review the annual state and federal drug abuse plans and budgets, and all amendments thereto, and advise the director on the development of the state drug abuse plan and the system of priorities contained in that plan.

(5) Submit an annual report to the department and the Legislature in January of each year which describes its accomplishments and includes its recommendations regarding the department's role in alleviating drug problems.

(i) The department shall provide such administrative, technical, and other personnel as may be necessary for the board's performance of its powers and duties.

(j) The department shall provide appropriate training to the board members relating to their charge so as to assure their understanding of the state drug program. It is the intent of the Legislature that each member of the board learn about the elements of the drug program and the nature of drug problems in his or her county of residence, to assist him or her in understanding the major policies to be examined by the board.

(k) This section shall remain in effect until December 31, 1988, and as of such date is repealed, unless a later enacted statute, which is chaptered on or before September 30, 1988, deletes or extends such date.

SEC. 2. It is the intent of the Legislature that any costs incurred by the Department of Alcohol and Drug Programs pursuant to this act shall be paid from funds made available to the department for general administrative expenses.

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 the continuation of the State Advisory Board on Drug Programs and to meet the statutory deadline for extension by September 30, 1983, it is necessary that this act take effect immediately.

CHAPTER 1057

An act to amend Section 52178 of the Education Code, relating to bilingual education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or, unless waived by the board, (c), and insofar as teachers are available, (d) of Section 52163 shall be bilingual-crosscultural teachers as defined pursuant to subdivision (h) of Section 52163, or shall be bilingual in English and the primary language of the pupils of limited-English proficiency in the bilingual class and hold an internship credential or an emergency bilingual-crosscultural credential.

In recognition of the shortage of qualified bilingual-crosscultural teachers, a school district may request a renewable two-year waiver from the board for each teacher who is not bilingual-crosscultural but who is enrolled and participating in a program leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5. Such a teacher, with the assistance of a bilingual-crosscultural aide, may teach in a program of bilingual instruction mandated by Section 52165 for not more than four school years commencing with the first year that the teacher was under waiver, so long as continuing progress toward the certificate of competence is indicated in accordance with this section.

Each school district which requests waivers shall file its application for such a waiver with the State Board of Education on or before October 1 of the appropriate year, and shall give assurance that all teachers receiving such a waiver are, or will be, participating in an appropriate program leading to a bilingual specialist credential or a certificate of competence for bilingual-crosscultural instruction pursuant to Section 44253.5 during each of the school years for which

the waiver is granted, and shall state who is in charge of the program and which institution or district is conducting it Existing state and federal staff development funds may be used for training and assessment leading to a bilingual specialist credential or a bilingual-crosscultural certificate of competence. The district shall further assure that all teachers receiving such a waiver have been notified in writing by the school board as to their obligations while under waiver The waiver application shall list the names of the teachers who are to receive the waiver, the school to which they are assigned, and the date by which the teacher is expected to obtain a bilingual specialist credential or the certificate of competence. Each district, whether or not it requests a waiver, shall report the number of classrooms for which a bilingual teacher is required pursuant to Section 52165, the total number of certificated bilingual-crosscultural teachers employed by the district in classroom positions, and, in the event the district requests a waiver, the total number of teachers for whom a waiver is being requested. If a district hires new teachers, no waiver shall be granted unless the board finds that the district made a good faith effort to contact, recruit, and hire bilingual-crosscultural teachers.

It is not the intent of the Legislature, by amending this section in the 1979–80 Regular Legislative Session, to expand the requirements for the certificate of bilingual-crosscultural competence.

For purposes of this section, programs for the study of language offered by accredited institutions of higher education shall be approved by the Commission on Teacher Credentialing. Courses for the study of language established by the State Department of Education pursuant to Article 4 (commencing with Section 52180) of Chapter 7 of Part 28 shall be approved by the State Department of Education and shall be deemed appropriate.

Commencing September 1, 1984, all initial waiver applications, shall include certification by an assessor agency approved by the Commission on Teacher Credentialing, that the applicant teacher is making the following progress toward meeting the requirements for the bilingual-crosscultural certificate of competence:

(a) For the teacher who is just entering the bilingual program: no requirement.

(b) For the teacher beginning his or her second year on waiver: (1) competence in language, culture, or methodology, as required by subdivision (a), (b), or (c) of Section 44253.5, and (2), for the teacher who is not competent in language, enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or enrollment in a course for the study of language which is established and approved by the State Department of Education.

(c) For the teacher beginning his or her third year on waiver: (1) competence in language as required by subdivision (a) of Section 44253.5, or (2) continued enrollment in a program for the study of language which is approved by the Commission on Teacher

Credentialing or continued enrollment in a course for the study of language which is established and approved by the State Department of Education.

(d) For the teacher beginning his or her fourth year on waiver: (1) competence in two of the three areas required by Section 44253.5 and (2), for the teacher who is not competent in language, continued enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or continued enrollment in a course for the study of language which is established and approved by the State Department of Education.

(e) For the teacher who has completed his or her fourth year on waiver: competence in the three areas required by Section 44253.5, except as follows:

(1) Teachers who are on waiver as of September 1, 1984, or whose waiver has expired on or after June 30, 1983, shall be given a one-year renewable extension, beyond the fourth year on waiver, in which to acquire competence in the three areas required by Section 44253.5, if the teacher has (i) demonstrated competence in culture and methodology and (ii) continued enrollment in a program for the study of language which is approved by the Commission on Teacher Credentialing or continued enrollment in a course for the study of language which is established and approved by the State Department of Education.

These certifications shall be provided to the Department of Education on an annual basis for the first six years the teacher is on waiver, as necessary.

In lieu of these certifications of competence in culture or methodology, as required by subdivision (b) or (c) of Section 44253.5, the district may submit a statement from a bilingual teacher training institution approved by the Commission on Teacher Credentialing that the coursework for that competence has been completed. To receive a bilingual-crosscultural certificate of competence, an applicant shall pass the examinations for all three areas of competence required by Section 44253.5.

The Commission on Teacher Credentialing shall contract with approved assessor agencies to assess separately each of the three competencies required in Section 44253.5. The commission shall arrange for assessments if approved assessor agencies cannot provide them. However, the commission may directly assess these competencies if the commission has been unable to arrange an assessment, and if a staff member is qualified to perform the assessment.

The Legislative Analyst shall, by November 15, 1984, review bilingual language assessments. The review shall include, but not be limited to, the following:

(a) The relationship of the language assessed to the language taught in the public schools.

(b) The level of expectation as reflected by required passing scores.

(c) The uniformity of assessment criteria and standards among assessor agencies.

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:

Current waivers applicable to many teachers are due to expire during the summer of 1983 and in order to allow school districts to continue their bilingual education programs without interruption, it is necessary that this act take effect immediately.

CHAPTER 1058

An act to add Article 4 (commencing with Section 1770) to Chapter 7.5 of Division 2 of the Fish and Game Code, and to add Article 7 (commencing with Section 18520) to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, relating to conservation.

[Approved by Governor September 25, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Article 4 (commencing with Section 1770) is added to Chapter 7.5 of Division 2 of the Fish and Game Code, to read:

Article 4. Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account

1770. The department shall maintain within the Fish and Game Preservation Fund an Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account which is hereby created.

1771. Whenever the department receives funds from the Treasurer under Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code for the support of this article, the funds shall be deposited in the Fish and Game Preservation Fund and credited to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account. These funds are for the support of programs for endangered and rare animals and native plant species as determined by the commission, related conservation and enhancement programs, and programs for those species which may be candidates for determination as endangered or rare under the criteria developed by the commission.

1772. The department may take all appropriate measures to encourage donations to this account through the tax return checkoff

system provided for in Article 7 (commencing with Section 18520) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code. The department may also disseminate information to the public concerning the status of endangered and rare species The cost to the department to carry out the provisions of this section may be charged to this account.

SEC. 2. Article 7 (commencing with Section 18520) is added to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 7. Donations to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account

18520. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. If payments and credits reported on the return, together with any other credits associated with the taxpayer's account, do not exceed the tax liability, if any, shown thereon, the return shall be treated as though no designation had been made. If no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund. The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) If a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled "Rare and Endangered Species Program" to allow for the designation permitted under subdivision (a).

18521. (a) The Franchise Tax Board shall determine annually the total amount designated and available pursuant to this article and notify the Controller of that amount.

(b) The Controller shall transfer that amount, less the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, to the Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account in the Fish and Game Preservation Fund. The Controller shall also transfer an amount equal to these direct actual costs to the Franchise Tax Board. All money transferred to the

Endangered and Rare Fish, Wildlife, and Plant Species Conservation and Enhancement Account and the Franchise Tax Board is available for appropriation by the Legislature to the Department of Fish and Game and to the Franchise Tax Board.

18522. It is the intent of the Legislature that this article create an additional source of funding for a specified purpose. The funds generated by this article shall not be used in place of funds from other sources which are available for appropriation to the Department of Fish and Game.

18523. Donations made to the account under this article may not be claimed as a deduction under Article 6 (commencing with Section 17201) of Chapter 3 for the purpose of computing personal taxable income.

18524. This article applies to taxable years ending on or after December 31, 1983.

18525. This article shall become inoperative on January 1, 1987, unless the Franchise Tax Board certifies to the Secretary of State, on or before January 1, 1987, that the board has been able to retain, in every year up to that date, an amount equal to its direct actual cost for the collection and administration of funds under the article. If the Franchise Tax Board certifies this fact to the Secretary of State, this article shall remain operative indefinitely.

CHAPTER 1059

An act to amend Section 6358.1 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 25, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Section 6358.1 of the Revenue and Taxation Code is amended to read:

6358.1. There are exempted from taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of either of the following:

(a) Organic products grown expressly for fuel purposes.

(b) Waste byproducts from agricultural or forest products operations, municipal refuse, or manufacturing which are used in an industrial facility as a fuel source in lieu of the use of either oil, natural gas, or coal.

This section shall remain in effect until December 31, 1986, and as of December 31, 1986, is repealed unless a later enacted statute which is chaptered before December 31, 1986, deletes or extends such date.

(c) In addition to subdivisions (a) or (b), the exemption under

this section shall include the use of still gas produced in the refining process from purchased crude oil.

SEC. 2. Section 1 of this act, which amends Section 6358.1 of the Revenue and Taxation Code, does not constitute a change in, but is declaratory of, the existing law. It is the intent of the Legislature in enacting this act to clarify existing law.

CHAPTER 1060

An act to add Section 69520 to the Education Code, relating to postsecondary education.

[Approved by Governor September 25, 1983 Filed with Secretary of State September 26, 1983]

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

SECTION 1. Section 69520 is added to the Education Code, to read:

69520. (a) The commission may receive, evaluate, and distribute the annual report of a scholarship program administered by the California Private School Association for vocational education students, if the report describes the criteria used to award the scholarships, the selection method used, the composition of the selection team, and a list of scholarship recipients.

(b) The commission may seek reimbursement from the California Private School Association for expenses incurred pursuant to subdivision (a).

CHAPTER 1061

An act to amend Section 1680 of, and to add Section 650.2 to, the Business and Professions Code, relating to healing arts.

[Became law without Governor's signature Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 650.2 is added to the Business and Professions Code, to read:

650.2. Notwithstanding the provisions of Section 650 or any other provision of law, it shall not be unlawful for a person licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 or any other person, to participate in or operate a group advertising and referral service for dentists so long as:

(a) The patient referrals by the service result from

patient-initiated responses to service advertising.

(b) The service advertises, if at all, in conformity with Section 651.

(c) The service does not employ a solicitor within the meaning of subdivision (j) of Section 1680.

(d) The service does not impose a fee on the member dentists dependent upon the number of referrals or amount of professional fees paid by the patient to the dentist.

(e) Participating dentists charge no more than their usual and customary fees to any patient referred.

(f) The service registers with the Board of Dental Examiners of California, providing its name and address.

(g) The service files with the Board of Dental Examiners of California a copy of the standard form contract that regulates its relationship with member dentists, which contract shall be confidential and not open to public inspection.

The Board of Dental Examiners of California may adopt regulations necessary to enforce and administer this section.

The Board of Dental Examiners of California may petition the superior court of any county for the issuance of an injunction restraining any conduct which constitutes a violation of this section.

It is unlawful and shall constitute a misdemeanor for a person to operate a group advertising and referral service for dentists without providing its name and address to the Board of Dental Examiners of California.

It is the intent of the Legislature in enacting this section not to otherwise affect the prohibitions provided in Section 650. The Legislature intends to allow the pooling of resources by dentists for the purposes of advertising.

This section shall not be construed in any manner which would authorize a referral service to engage in the practice of dentistry.

SEC. 2. Section 1680 of the Business and Professions Code is amended to read:

1680. Unprofessional conduct by a person licensed under this chapter is defined as, but is not limited to, the violation of any one of the following:

(a) The obtaining of any fee by fraud or misrepresentation.

(b) The employment directly or indirectly of any student or suspended or unlicensed dentist to practice dentistry as defined in this chapter.

(c) The aiding or abetting of any unlicensed person to practice dentistry.

(d) The aiding or abetting of a licensed person to practice dentistry unlawfully.

(e) The committing of any act or acts of gross immorality substantially related to the practice of dentistry.

(f) The use of any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he or she is licensed to practice, in advertising or in any other manner indicating that he or she is practicing or will

practice dentistry, except that name as is specified in a valid permit issued pursuant to Section 1701.5.

(g) The practice of accepting or receiving any commission or the rebating in any form or manner of fees for professional services, radiograms, prescriptions or other services or articles supplied to patients.

(h) The making use by the licentiate or any agent of the licentiate of any advertising statements of a character tending to deceive or mislead the public.

(i) The advertising of either professional superiority or the advertising of performance of professional services in a superior manner. This subdivision shall not prohibit advertising permitted by subdivision (h) of Section 651.

(j) The employing or the making use of solicitors.

(k) The advertising of any free dental work, or free examination.

(*l*) The advertising to guarantee any dental service, or to perform any dental operation painlessly. This subdivision shall not prohibit advertising permitted by Section 651.

(m) The violation of any of the provisions of law regulating the procurement, dispensing, or administration of dangerous drugs, as defined in Article 8 (commencing with Section 4211) of Chapter 9, or controlled substances, as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code.

(n) The violation of any of the provisions of this division.

(o) The failure to certify, or the false certification, to the board on or after January 1, 1972, that he or she or any person employed by the licentiate, who operates dental radiographic equipment, has passed an examination in radiation safety conducted by the board, or the equivalent of the examination as required by Section 1656; or the permitting of any person employed by him or her to operate dental radiographic equipment who has not passed an examination or the equivalent of the examination in radiation safety as required by Section 1656.

(p) The clearly excessive prescribing or administering of drugs or treatment, or the clearly excessive use of diagnostic procedures, or the clearly excessive use of diagnostic or treatment facilities, as determined by the customary practice and standards of the dental profession.

Any person who violates this subdivision is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600) or by imprisonment for a term of not less than 60 days or more than 180 days or by both such fine and imprisonment.

(q) The use of threats or harassment against any patient or licentiate for providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of this chapter or to aid in the compliance.

(r) Suspension or revocation of a license issued by another state

or territory on grounds which would be the basis of discipline in the State of California.

(s) The alteration of a patient's record with intent to deceive.

(t) Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession.

(u) The abandonment of the patient by the licentiate before the completion of a phase of treatment, as that phase of treatment is defined by the customary practice and standards of the dental profession.

(v) The willful misrepresentation of facts relating to a disciplinary action to the patients of a disciplined licentiate.

(w) Use of fraud in the procurement of any license issued pursuant to this chapter.

(x) Any action or conduct which would have warranted the denial of the license.

(y) The aiding or abetting of a licensed dentist or dental auxiliary to practice dentistry in a negligent or incompetent manner.

(z) The failure to report to the board in writing within seven days either: (1) the death of his or her patient during the performance of any dental procedure; or, (2) the discovery of the death of a patient whose death is causally related to a dental procedure performed by him or her.

(aa) Participating in or operating any group advertising and referral services which is in violation of Section 650 2.

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 1062

An act to amend Section 39908 of, and to add and repeal Section 40460.5 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 39908 of the Health and Safety Code is amended to read:

39908. The state board shall implement the comprehensive research and monitoring program to the extent permitted by available fiscal resources. The state board shall endeavor to receive

federal or other funds to carry out the program.

The state board, with the advice and participation of the state agency working group and the scientific advisory committee, shall establish annual priorities for implementation of the program, but shall give priority to research and monitoring of acid deposition in the South Coast Air Basin in order that research data will be available to the south coast district by the time specified in Section 40460.5. This section does not limit the power of the south coast district to conduct additional research as necessary.

SEC. 2. Section 40460.5 is added to the Health and Safety Code, to read:

40460.5. (a) Notwithstanding Section 40460, not later than July 1, 1984, the south coast district board shall perform an assessment of problems arising from acid deposition in the air basin. The assessment shall incorporate, but is not limited to, all available findings and data from the research and monitoring program developed pursuant to the Kapiloff Acid Deposition Act (Chapter 6 (commencing with Section 39900) of Part 2).

(b) Notwithstanding Section 40460, not later than December 1, 1984, the south coast district board shall identify existing strategies and the need for additional strategies for reducing acid deposition precursors. The south coast district board shall integrate any identified strategies into the plan review process performed in accordance with Section 40463.

(c) Not later than January 1, 1986, the south coast district shall adopt rules and regulations for the reduction of acid deposition in the air basin, unless the south coast district finds, on the basis of substantial evidence after a public hearing, that its existing rules and regulations adequately protect the public health or welfare from damage due to acid deposition. In adopting the rules and regulations, the south coast district shall consider the available findings and data from the research and monitoring program developed pursuant to the Kapiloff Acid Deposition Act.

(d) This section 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.

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 1063

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

[Approved by Governor September 26, 1983. Filed with Secretary of State September 27, 1983.]

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

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

1203. (a) As used in this code, "probation" shall mean the suspension of the imposition or execution of a sentence and the order of conditional and revocable release in the community under the supervision of the probation officer. As used in this code, "conditional sentence" shall mean the suspension of the imposition or execution of a sentence and the order of revocable release in the community subject to the conditions established by the court without the supervision of the probation officer. It is the intent of the Legislature that both conditional sentence and probation are authorized whenever probation is authorized in any code as a sentencing option for infractions or misdemeanors.

(b) In every case in which a person is convicted of a felony and is eligible for probation, before judgment is pronounced, the court shall immediately refer the matter to the probation officer to investigate and report to the court, at a specified time, upon the circumstances surrounding the crime and the prior history and record of the person, which may be considered either in aggravation or mitigation of the punishment. The probation officer shall immediately investigate and make a written report to the court of his or her findings and recommendations, including his or her recommendations as to the granting or denying of probation and the conditions of probation, if granted. Pursuant to Section 828 of the Welfare and Institutions Code, the probation officer shall include in his or her report any information gathered by a law enforcement agency relating to the taking of the defendant into custody as a minor, which shall be considered for purposes of determining whether adjudications of commissions of crimes as a juvenile warrant a finding that there are circumstances in aggravation pursuant to Section 1170 or to deny probation. The probation officer shall also include in the report his or her determination of whether the defendant is a person who is required to pay a fine pursuant to Section 13967 of the Government Code. The probation officer shall also include in his or her report for the court's consideration whether the court shall require, as a condition of probation, restitution to the victim or to the Indemnity Fund if assistance has been granted to the victim pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code, a recommendation thereof, and if so, the amount thereof, and the

means and manner of payment. The report shall be made available to the court and the prosecuting and defense attorney at least nine days prior to the time fixed by the court for the hearing and determination of the report, and shall be filed with the clerk of the court as a record in the case at the time of the hearing. The time within which the report shall be made available and filed may be waived by written stipulation of the prosecuting and defense attorney which is filed with the court or an oral stipulation in open court which is made and entered upon the minutes of the court. At a time fixed by the court, the court shall hear and determine the application, if one has been made, or, in any case, the suitability of probation in the particular case. At the hearing, the court shall consider any report of the probation officer and shall make a statement that it has considered such report which shall be filed with the clerk of the court as a record in the case. If the court determines that there are circumstances in mitigation of the punishment prescribed by law or that the ends of justice would be subserved by granting probation to the person. it may place the person on probation. If probation is denied, the clerk of the court shall immediately send a copy of the report to the Department of Corrections at the prison or other institution to which the person is delivered.

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

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

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

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

(2) Any person who used or attempted to use a deadly weapon upon a human being in connection with the perpetration of the

crime of which he or she has been convicted.

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

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

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

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

(i) Unless the person had a lawful right to carry a deadly weapon at the time of the perpetration of such previous crime or his arrest for such previous crime, he or she was armed with such weapon at either of such times.

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

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

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

(8) Any person who knowingly furnishes or gives away phencyclidine.

(9) Any person who intentionally inflicted great bodily injury in the commission of arson under subdivision (a) of Section 451 or who intentionally set fire to, burned or caused the burning of an inhabited structure or inhabited property in violation of subdivision (b) of Section 451.

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

(g) If a person is not eligible for probation, the judge may, in his or her discretion, refer the matter to the probation officer for an investigation of the facts relevant to the sentencing of the person. Upon such referral, the probation officer shall immediately investigate the circumstances surrounding the crime and the prior

record and history of the person and make a written report to the court of his or her findings.

(h) In any case in which a defendant is convicted of a felony and a probation report is prepared pursuant to subdivision (b) or (g), the probation officer shall obtain and include in such report a statement of the comments of the victim concerning the offense. The court may direct the probation officer not to obtain such a statement in any case where the victim has in fact testified at any of the court proceedings concerning the offense.

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

CHAPTER 1064

An act to add Section 188.6 to, and to add and repeal Section 188.5 of, the Streets and Highways Code, relating to streets and highways, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 188.5 is added to the Streets and Highways Code, to read:

188.5. (a) The Street and Highway Storm Damage Loan Advisory Board composed of three members is hereby created. The advisory board shall consist of the Director of Transportation who shall serve as the chairman, the Director of the Office of Emergency Services, and the Director of Finance.

(b) After evaluating other potential sources of funds, the advisory board, as a last resource, shall recommend to the Office of Emergency Services the authorization of loans to cities and counties for the repair of streets, roads, and highways damaged by storms during the 1981–82 and 1982–83 fiscal years. The Office of Emergency Services may request the department to prepare, for adoption by the Office of Emergency Services, procedures for the submission of applications and criteria for the making of loans.

(c) The Office of Emergency Services may make loans upon terms and conditions which will carry out the purposes of this section. No administrative costs may be charged against funds appropriated for loans under this section. To the extent feasible, moneys loaned under this section shall be used to secure and supplement federal funds made available from the Federal

Emergency Management Agency.

(d) Loans made pursuant to this section shall be repaid within five years from the effective date of this section, as specified by the Office of Emergency Services, with interest at the same rate as is earned by funds invested in the Pooled Money Investment Account.

(e) This section shall become inoperative five years from the effective date of this section, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the date on which it becomes inoperative and is repealed.

SEC. 2. Section 188.6 is added to the Streets and Highways Code, to read:

188.6. If a loan is not repaid by a city or county under Section 188.5 within the required time, the Controller shall withhold the apportionments to the city or county under Sections 2104, 2106, and 2107 and credit these apportionments to the loan until the loan is repaid in accordance with its terms and conditions.

SEC. 3. (a) The sum of fifteen million dollars ($15,000,000) shall be transferred in the 1983–84 fiscal year from the Motor Vehicle Account in the State Transportation Fund to the State Highway Account in the State Transportation Fund.

(b) The sum of fifteen million dollars ($15,000,000) is hereby appropriated from the State Highway Account in the State Transportation Fund to the Office of Emergency Services for making loans to cities and counties pursuant to Section 188.5 of the Streets and Highways Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide local government agencies with immediate loans for the purpose of repairing storm-damaged public roads, it is necessary that this act take effect immediately.

CHAPTER 1065

An act to add Section 1256.5 to the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 1256.5 is added to the Unemployment Insurance Code, to read:

1256.5. (a) An individual is disqualified for unemployment compensation benefits if the director finds that he or she was

discharged from his or her most recent work for chronic absenteeism due to intoxication or reporting to work while intoxicated or using intoxicants on the job, or gross neglect of duty while intoxicated, or otherwise left his or her most recent employment for reasons caused by an irresistible compulsion to use or consume intoxicants, including alcoholic beverages. An individual disqualified under this section, under a determination transmitted to him or her by the department, is ineligible to receive unemployment compensation benefits under this part for the week in which the discharge occurs, and continuing until he or she has performed service in bonafide employment for which remuneration is received equal to or in excess of five times his or her weekly benefit amount, or until a physician or authorized treatment program administrator certifies that the individual has entered into and is continuing in, or has completed, a treatment program for his or her condition and is able to return to employment.

(b) The department shall advise each individual disqualified under subdivision (a) of the benefits available under Part 2 (commencing with Section 2601), and, if assistance in locating an appropriate treatment program is requested, refer the individual to the appropriate county drug or alcohol program administrator.

CHAPTER 1066

An act to amend and repeal Sections 17053.7 and 24330 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 17053.7 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(3) With respect to a "qualified summer youth employee," has

received a certification from the Employment Development Department for purposes of claiming a federal tax credit in accordance with Section 51 (d) (12) of the Internal Revenue Code.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during a taxable year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to the taxpayer; or

(2) Who, if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to a grantor, beneficiary, or fiduciary of the estate or trust; or

(3) Who is a dependent (as described in subdivision (i) of Section 17056) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 1984.

(i) This section shall remain in effect only until December 31, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends that date.

SEC. 2. Section 24330 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax

on preference income) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(3) With respect to a "qualified summer youth employee," has received a certification from the Employment Development Department for purposes of claiming a federal tax credit in accordance with Section 51 (d) (12) of the Internal Revenue Code.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during an income year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (as determined pursuant to Section 24429); or

(2) Who an individual described in paragraph (i).

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for the employer after December 31, 1984.

(i) This section shall remain in effect only until December 31, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends that date.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of Section 1 of this act shall apply with respect to taxable years beginning on and after January 1 of the year in which this act is chaptered and the provisions of Section 2 of this act shall apply with respect to income years beginning on and after January 1 of the year in which this act is chaptered.

CHAPTER 1067

An act to add Section 1797.251 to, and to add Article 2.5 (commencing with Section 1798.160) to Chapter 6 of Part 1 of Division 2.5 of, the Health and Safety Code, relating to health

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 1797.251 is added to the Health and Safety Code, to read:

1797.251. A local EMS agency which elects to implement a regional trauma care system shall develop and submit a plan to the authority for that regional trauma care system according to the regulations established pursuant to Section 1798.160 prior to that implementation.

SEC. 2. Article 2.5 (commencing with Section 1798.160) is added to Chapter 6 of Part 1 of Division 2.5 of the Health and Safety Code, to read:

Article 2.5. Regional Trauma Systems

1798.160. Except where the context otherwise requires, the following definitions in this section govern construction of this article:

(a) "Trauma case" means any injured person who has been evaluated by prehospital personnel as requiring transportation to a trauma facility.

(b) "Trauma facility" means a health facility which is capable of treating one or more types of potentially seriously injured persons, as defined by regulation. A facility may be a trauma facility for one or more services.

(c) "Trauma system" means an arrangement under which trauma cases are transported to, and treated by, the appropriate trauma

facility.

1798.161. The authority, with the approval of the commission, shall establish regulations specifying standards for the implementation of regional trauma systems by July 1, 1984. These regulations shall provide specific requirements for the care of trauma cases and shall ensure that the trauma care system is fully coordinated with all elements of the existing emergency care system. The regulations shall be adopted as provided in Section 1799.50, and shall include, but not be limited to, all of the following:

(a) Prehospital care management guidelines for triage and transportation of trauma cases.

(b) Flow patterns of trauma cases and geographic boundaries regarding trauma and nontrauma cases.

(c) The number and type of trauma cases necessary to assure that trauma facilities will provide quality care to trauma cases referred to them.

(d) The resources and equipment needed by trauma facilities to treat trauma cases.

(e) The availability and qualifications of the health care personnel, including physicians and surgeons, treating trauma cases within a trauma facility.

(f) Data collection regarding system operation and patient outcome.

(g) Periodic performance evaluation of the trauma system and its components.

1798.162. A local emergency medical services agency may implement a regional trauma system only if the system meets the regulations for implementation established by the authority. Prior to implementing a trauma care system, a local emergency medical services agency shall hold a public hearing and shall give adequate notice of the public hearing to all hospitals and other interested parties in the area proposed to be included in the system.

1798.163. A local emergency medical services agency implementing a regional trauma system shall establish policies and procedures which are concordant and consistent with the regulations adopted by the authority.

1798.164. A local emergency medical services agency may charge a fee to an applicant seeking initial or continuing designation as a trauma facility in an amount sufficient to cover the costs directly related to designating trauma facilities pursuant to Section 1798.165 and to developing the plan required by Section 1798.166.

1798.165. Local emergency medical services agencies may designate trauma facilities as part of their trauma care system pursuant to the regulations promulgated by the authority.

1798.166. A local emergency medical services agency which elects to implement a trauma care system on or after January 1, 1984, shall develop and submit a plan to the authority according to the regulations established prior to the implementation.

1798.167. Nothing in this article shall be construed to restrict the

authority of a health care facility to provide a service for which it has received a license pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

1798.168. Nothing in this article shall be construed as changing the boundaries of any local emergency medical services agency in existence on January 1, 1984.

1798.169. Nothing in this article shall be construed as restricting the use of a helicopter of the Department of the California Highway Patrol from performing missions which the department determines are in the best interests of the people of the State of California.

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 1068

An act to amend Sections 8152 and 8153 of, and to add Sections 8155 and 76006 to, the Education Code, relating to apprentice education, and making an appropriation therefor.

[Approved by Governor September 26, 1983. Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 8152 of the Education Code is amended to read:

8152. Each 50-minute hour of teaching time devoted to each indentured apprentice enrolled in and attending classes of related and supplemental instruction as provided under Section 3074 of the Labor Code shall be reimbursed at the rate of three dollars and twenty-five cents ($3.25) per hour.

SEC. 2. Section 8153 of the Education Code is amended to read:

8153. The Superintendent of Public Instruction or the Chancellor of the California Community Colleges, whichever is appropriate, shall allow three dollars and twenty-five cents ($3.25) for each hour of teaching time, as defined in Section 8152, devoted to each indentured apprentice in classes of related and supplemental instruction provided by high schools, unified school districts, regional occupation centers or programs, community colleges, or adult schools.

SEC. 3. Section 8155 is added to the Education Code, to read:

8155. (a) The State Department of Education, the Chancellor of the California Community Colleges, and the Division of Apprenticeship Standards shall jointly develop a model format for

agreements between Joint Apprenticeship Training Councils and local education agencies for instruction pursuant to Section 3074 of the Labor Code.

(b) The State Department of Education, the Chancellor of the California Community Colleges, and the Division of Apprenticeship Standards shall jointly develop a model format for agreements between Joint Apprenticeship Training Councils and local education agencies concerning the calculation and payment of excess costs pursuant to Section 3074 of the Labor Code.

SEC. 4. Section 76006 is added to the Education Code, to read:

76006. Except as provided in Section 3074.7 of the Labor Code, no charges or fees shall be required to be paid by an apprentice, or by his or her parent or guardian, for admission or attendance in any course or activity which is offered pursuant to Section 3074 of the Labor Code in accordance with the instructional hours requirements specified in subdivision (d) of Section 3078 of the Labor Code.

CHAPTER 1069

An act to amend Sections 16750 and 16760 of, and to add Section 16761 to, the Business and Professions Code, relating to restraints of trade.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 16750 of the Business and Professions Code is amended to read:

16750. (a) Any person who is injured in his or her business or property by reason of anything forbidden or declared unlawful by this chapter, may sue therefor in any court having jurisdiction in the county where the defendant resides or is found, or any agent resides or is found, or where service may be obtained, without respect to the amount in controversy, and to recover three times the damages sustained by him or her, interest on his or her actual damages pursuant to Section 16761, and shall be awarded a reasonable attorneys' fee together with the costs of the suit.

Such action may be brought by any person who is injured in his business or property by reason of anything forbidden or declared unlawful by this chapter, regardless of whether such injured person dealt directly or indirectly with the defendant.

The amendments to this section adopted at the 1959 Regular Session of the Legislature do not apply to any action commenced prior to September 18, 1959.

(b) The state and any of its political subdivisions and public agencies shall be deemed a person within the meaning of this section.

(c) The Attorney General may bring an action on behalf of the state or of any of its political subdivisions or public agencies to recover the damages provided for by this section, or by any comparable provision of federal law, provided that the Attorney General shall notify in writing any political subdivision or public agency of his intention to bring any such action on its behalf, and at any time within 30 days thereafter, such political subdivision or public agency may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the Attorney General to bring the intended action. In any action brought pursuant to this section on behalf of any political subdivision or public agency of the state, the state shall retain for deposit in the Attorney General antitrust account within the General Fund, out of the proceeds, if any, resulting from such action, an amount equal to the expense incurred by the Attorney General in the investigation and prosecution of such action or an amount equal to 10 percent of the total recovery obtained by the Attorney General, whichever is greater.

(d) In any antitrust action brought on behalf of the state in which the Attorney General is the class representative of political subdivisions, public agencies, or citizens of the state who have been affected by the matters set forth in the complaint, the state shall retain for deposit in the Attorney General antitrust account within the General Fund, the proceeds, if any, of any attorneys' fees awarded by the court in which such case is located, to the Attorney General, resulting from such class representation.

(e) In any action brought by the Attorney General pursuant to either state or federal antitrust laws for the recovery of damages by the state or any of its political subdivisions or public agencies, in addition to his other powers and authority, the Attorney General may enter into contracts relating to the investigation and the prosecution of such action with any other party plaintiff who has brought a similar action for the recovery of damages and with whom the Attorney General finds it advantageous to act jointly, or to share common expenses or to cooperate in any manner relative to such action. In any such action, notwithstanding the provisions of Section 12520 of the Government Code, the Attorney General may undertake, among other things, either to render legal services as special counsel to, or to obtain the legal services of special counsel from any department or agency of the United States, of this state or any other state or any department or agency thereof, any county, city, public corporation or public district of this state or of any other state, that has brought or intends to bring a similar action for the recovery of damages, or their duly authorized legal representatives in such action. The Attorney General may also enter into any agreement authorized by Chapter 5 (commencing with Section 6500), Division 7, Title 1 of the Government Code with any governmental entity enumerated in this subdivision, notwithstanding any provision to the contrary contained in Section

6500 of the Government Code. Every contract or agreement entered into pursuant to this subdivision (e) shall be approved by the Department of General Services.

(f) The amounts paid into the Attorney General antitrust account within the General Fund pursuant to subdivisions (c), (d) and (e) arising from the same action or companion actions shall not cumulatively exceed the greater of ten percent (10%) of the total recovery in all actions resulting from the Attorney General's representation or an amount equal to the expenses incurred by the Attorney General in the investigation and prosecution of such actions. Any excess shall be paid into the General Fund.

(g) The district attorney of any county may prosecute any action on behalf of such county or any city or public agency or political subdivision located wholly within such county which the Attorney General is authorized to bring pursuant to subdivision (c) of this section, whenever it appears that the activities giving rise to such prosecution or the effects of such activities occur primarily within such county. The district attorney shall file with the Attorney General at least 30 days prior to the filing of any such action a copy of the proposed complaint together with a confidential memorandum and report explaining the facts giving rise to the proposed prosecution and supporting the filing of the new complaint. Prior to entering into any stipulated or consent judgment or other settlement of any such action, the district attorney shall file with the Attorney General at least 30 days prior to the execution thereof a copy of the proposed settlement together with a memorandum of explanation of the settlement. The Attorney General may waive any time requirements provided in this subdivision. In any investigation or action undertaken or brought by a district attorney pursuant to this section, if the Attorney General deems it necessary and in the public interest, the Attorney General may take full charge of any such investigation or prosecution, and the Attorney General shall have all the powers granted by Section 12550 of the Government Code in respect thereto.

(h) In any action prosecuted pursuant to the provisions of subdivision (g) a district attorney may exercise all of the powers conferred on the Attorney General by subdivision (e) provided that every contract or agreement entered into pursuant to this subdivision by a district attorney shall first be approved by the governing authority of the agency in his county.

(i) In any action brought pursuant to subdivision (g) a district attorney may represent any political subdivision located within his county directly, in which case he shall notify in writing such political subdivision of his intention to bring any such action on its behalf, and at any time within 30 days thereafter, such political subdivision may, by formal resolution of its governing body or as otherwise specifically provided by applicable law, withdraw the authority of the district attorney to bring the intended action. In any action in which a district attorney directly represents any political subdivision located

within his county, the district attorney shall retain out of the proceeds, if any, resulting from such action, an amount equal to the expense incurred by the district attorney in the investigation and prosecution of such action or an amount equal to 10 percent of the total recovery obtained by the district attorney, whichever is greater. In any action brought pursuant to subdivision (g) in which the county, through the district attorney, is the class representative of political subdivisions located within such county, the district attorney shall retain the proceeds, if any, of any attorneys' fees awarded by the court in which such action is pending to the district attorney, resulting from such class representation. All proceeds retained by a district attorney pursuant to this subdivision shall be deposited in the appropriate account as provided by law.

(j) Nothing in this section shall be construed to authorize any district attorney to exercise the powers conferred upon the Attorney General by an act of Congress of September 30, 1976, (P.L. 94-905; 90 Stat. 1983) also known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, except at the direction of the Attorney General.

SEC. 2. Section 16760 of the Business and Professions Code is amended to read:

16760. (a) (1) The Attorney General may bring a civil action in the name of the people of the State of California, as parens patriae on behalf of natural persons residing in the state, in the superior court of any county which has jurisdiction of a defendant, to secure monetary relief as provided in this section for injury sustained by such natural persons to their property by reason of any violation of this chapter. The court shall exclude from the amount of monetary relief awarded in such action any amount of monetary relief (A) which duplicates amounts which have been awarded for the same injury, or (B) which is properly allocable to (i) natural persons who have excluded their claims pursuant to paragraph (2) of subdivision (b), and (ii) any business entity.

(2) The court shall award the state as monetary relief the total damage sustained as described in paragraph (1), the interest on the total damages pursuant to Section 16761, and the costs of suit, including a reasonable attorney's fee.

(3) The court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon a finding that the attorney general or district attorney has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.

(b) (1) In any action brought under this section, the Attorney General shall, at such times, in such manner, and with such content as the court may direct, cause notice thereof to be given by publication. If the court finds that notice given solely by publication would deny due process of law to any person or persons, the court may direct further notice to such person or persons according to the circumstances of the case.

(2) Any person on whose behalf an action is brought under

paragraph (1) of subdivision (a) may elect to exclude from adjudication the portion of the claim for monetary relief attributable to him by filing notice of such election with the court within such time as specified in the notice given pursuant to paragraph (1).

(3) The final judgment in an action under paragraph (1) of subdivision (a) shall be res judicata as to any claim under this section by any person on behalf of whom such action was brought and who fails to give such notice within the period specified in the notice given pursuant to paragraph (1).

(c) An action under paragraph (1) of subdivision (a) shall not be dismissed or compromised without the approval of the court, and notice of any proposed dismissal or compromise shall be given in such manner as the court directs.

(d) In any action under this chapter, where there has been a determination that a defendant agreed to fix prices, damages may be proved and assessed in the aggregate by statistical or sampling methods, by the pro rata allocation of illegal overcharges or of excess profits, or by such other reasonable system of estimating aggregate damages as the court in its discretion may permit without the necessity of separately proving the individual claim of, or amount of damage to, persons on whose behalf the suit was brought.

(e) Monetary relief recovered by the Attorney General under this section shall be distributed as follows:

(1) In such manner as the superior court having jurisdiction over the action in its discretion may authorize to insure, to the extent possible, that each person be afforded a reasonable opportunity to secure his appropriate portion of the monetary relief.

(2) The Attorney General shall retain that portion of the monetary relief awarded by the court as costs of suit and attorney's fee for deposit in the Attorney General Antitrust Account within the General Fund.

(3) To the extent that the monetary relief awarded by the court is not exhausted by distribution under paragraphs (1) and (2), the remaining funds shall be treated under the provisions of Article 3 (commencing with Section 1530) and Article 4 (commencing with Section 1540) of Chapter 7 of Title 10 of Part 3 of the Code of Civil Procedure as if it were unclaimed property, as defined in Section 1300 of the Code of Civil Procedure

(f) The powers granted in this section are in addition to and not in derogation of the powers granted to the Attorney General by common law in respect to bringing actions parens patriae.

(g) The district attorney of any county may prosecute any action on behalf of the natural persons residing in such county which the Attorney General is authorized to bring pursuant to subdivision (a), whenever it appears that the activities giving rise to such prosecution or the effects of such activities occur primarily within such county. Prior to bringing any such action, a district attorney shall comply with the notice requirements provided in subdivision (g) of Section 16750. In any action brought pursuant to this subdivision, the

provisions of subdivisions (a) to (e), inclusive, shall be applicable, except that the portion of monetary relief awarded by the court as attorney's fee and costs shall be retained by the district attorney for deposit in the appropriate account as provided by law.

SEC. 3. Section 16761 is added to the Business and Professions Code, to read:

16761. The court may award, pursuant to a motion by a person who has recovered damages pursuant to Section 16750, or by the Attorney General who has secured monetary relief pursuant to Section 16760, interest on actual damages at the rate of 10 percent per annum for the period beginning on the date of service of such person's or the Attorney General's complaint setting forth a claim for violation of this chapter and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only the following:

(a) Whether the person, the Attorney General, or the opposing party, or the representative of any of those parties, made motions or asserted claims or defenses so lacking in merit as to show that the party or representative acted intentionally for delay, or otherwise acted in bad faith.

(b) Whether, in the course of the action involved, the person, the Attorney General, or the opposing party, or the representative of any of those parties, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings.

(c) Whether the person, the Attorney General, or the opposing party, or the representative of any of those parties, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof.

CHAPTER 1070

An act to amend Section 25402 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control

system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt any revision which, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floor space, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices The commission shall periodically review the standards and adopt any revision which, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, for all appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(2) No new appliance regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of manufacture is permanently displayed in an accessible place on that appliance.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be

certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of the conflict.

SEC. 2. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt any revision which, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floor space, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt any revision which, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, for all appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable

efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification therefor, to adopt or amend a standard for the appliance.

(2) During the period of five years after the commission has adopted a standard for a particular appliance, under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective.

(3) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before January 1, 1984, prescribing minimum levels of operating efficiency for any appliance. Prior to January 1, 1986, the commission shall not take any action to increase any standard prescribing minimum levels of operating efficiency for any appliance or adopt any new standard under paragraph (1). Prior to January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on those sales. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. Notwithstanding paragraph (2) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that

the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Adopt a new standard for an appliance using an innovative design or having an innovative or specialized function, if that appliance is of the same general type and category for which a standard already exists.

(E) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard which is readopted is not more stringent than the standard that was found to be defective or preempted.

(F) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency pursuant to Section 8558 of the Government Code.

(4) No new appliance regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of the conflict.

SEC. 3. Section 2 of this bill incorporates amendments to Section 25402 of the Public Resources Code proposed by both this bill and AB 191. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 25402 of the Public Resources Code, and (3) this bill is enacted after AB 191, in which case Section 1 of this bill shall not become operative.

CHAPTER 1071

An act to amend Section 52301 of the Education Code, relating to vocational education.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 52301 of the Education Code is amended to read:

52301. (a) The county superintendent of schools of each county, with the consent of the State Board of Education, may establish and maintain, or with one or more counties may establish and maintain, at least one regional occupational center, or regional occupational program, in the county to provide education and training in vocational courses. The governing boards of any school districts maintaining high schools in the county may, with the consent of the State Board of Education and of the county superintendent of schools, cooperate in the establishment and maintenance of a regional occupational center, or regional occupational program, except that if such a school district also maintains 500 or more schools its governing board may establish and maintain one or more regional occupational centers, or regional occupational programs, without such restrictions. A regional occupational center or regional occupational program may be established by two or more school districts maintaining high schools through the use of the staff and facilities of a community college or community colleges serving the same geographic area as the school districts maintaining the high schools, with the consent of the State Board of Education and the county superintendent of schools. The establishment and maintenance of a regional occupational center, or regional occupational program, by two or more school districts may be undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code. In such a regional occupational center or program, the functions of the county auditor undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code shall be performed by the county superintendent of schools in a county in which the board of supervisors has transferred educational functions from the county auditor to the county superintendent of schools pursuant to Sections 42649, as added by Chapter 533 of the Statutes of 1977, and 85265.5. If a school district or school districts establish and maintain such a regional occupational center, or regional occupational program, pursuant to this chapter, the county superintendent of schools may, with the consent of the State Board of Education, establish and maintain a separate regional occupational center or centers, or regional occupational program or programs.

(b) Notwithstanding other provisions of this section, a single school district located in a class 1 county, as defined in Section 1205, and having an average daily attendance of 50,000 or more, or a single school district located in a class 2 county, as defined in Section 1206, and having an average daily attendance of 100,000 or more, may apply to the State Board of Education through the county superintendent of schools for permission to establish a regional

occupational center or program. Except as provided in subdivision (c), the State Board of Education shall, within 90 days of receipt of an application, prescribe a procedure whereby the district may establish a center or program in accordance with its application and in compliance with the provisions of the State Plan for Vocational Education. The county superintendent of schools may supervise establishment of the center or program.

(c) The State Board of Education may disapprove a waiver application submitted by a single school district pursuant to Article 3 (commencing with Section 33050) of Chapter 1 of Part 20 for permission to establish a regional occupational center or program which does not meet the requirements of this section if the board determines that the establishment of the center or program would have an adverse effect upon existing regional occupational centers or programs located in school districts which are contiguous to the applicant school district.

The State Board of Education shall establish criteria to measure adverse effect The criteria shall include, but not be limited to, hardship on (1) districts operating regional occupational centers or programs which are contiguous to the applicant district and (2) students of districts operating regional occupational centers or programs which are contiguous to the applicant district.

CHAPTER 1072

An act to amend Sections 1035.2 and 1035.4 of the Evidence Code, relating to counselors.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 1035.2 of the Evidence Code is amended to read:

1035.2. As used in this article, "sexual assault victim counselor" means a person who is engaged in any office, hospital, institution, or center commonly known as a rape crisis center, whose primary purpose is the rendering of advice or assistance to victims of sexual assault and who has received a certificate evidencing completion of a training program in the counseling of sexual assault victims issued by a counseling center that meets the criteria for the award of a grant established pursuant to Section 13837 of the Penal Code and who meets one of the following requirements:

(a) Be a psychotherapist as defined in Section 1010; or have a master's degree in counseling or a related field; or have one year of counseling experience, at least six months of which is in rape crisis counseling.

(b) Have 40 hours of training as described below and be supervised by an individual who qualifies as a counselor under subdivision (a). The training, to be supervised by a person qualified under subdivision (a), shall include, but not be limited to, the following areas: law, medicine, societal attitudes, crisis intervention and counseling techniques, role playing, referral services, and sexuality.

SEC. 2. Section 1035.4 of the Evidence Code is amended to read:

1035.4. As used in this article, "confidential communication between the sexual assault counselor and the victim" means information transmitted between the victim and the sexual assault counselor in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the sexual assault counselor is consulted. The term includes all information regarding the facts and circumstances involving the alleged sexual assault and also includes all information regarding the victim's prior or subsequent sexual conduct, and opinions regarding the victim's sexual conduct or reputation in sexual matters.

The court may compel disclosure of information received by the sexual assault counselor which constitutes relevant evidence of the facts and circumstances involving an alleged sexual assault about which the victim is complaining and which is the subject of a criminal proceeding if the court determines that the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled. The court may also compel disclosure in proceedings related to child abuse if the court determines the probative value outweighs the effect on the victim, the treatment relationship, and the treatment services if disclosure is compelled.

When a court is ruling on a claim of privilege under this article, the court may require the person from whom disclosure is sought or the person authorized to claim the privilege, or both, to disclose the information in chambers out of the presence and hearing of all persons except the person authorized to claim the privilege and such other persons as the person authorized to claim the privilege is willing to have present. If the judge determines that the information is privileged and must not be disclosed, neither he or she nor any other person may ever disclose, without the consent of a person authorized to permit disclosure, what was disclosed in the course of the proceedings in chambers.

If the court determines certain information shall be disclosed, the court shall so order and inform the defendant. If the court finds there is a reasonable likelihood that particular information is subject to disclosure pursuant to the balancing test provided in this section, the following procedure shall be followed:

(1) The court shall inform the defendant of the nature of the information which may be subject to disclosure.

(2) The court shall order a hearing out of the presence of the jury, if any, and at the hearing allow the questioning of the sexual assault counselor regarding the information which the court has determined may be subject to disclosure.

(3) At the conclusion of the hearing, the court shall rule which items of information, if any, shall be disclosed. The court may make an order stating what evidence may be introduced by the defendant and the nature of questions to be permitted. The defendant may then offer evidence pursuant to the order of the court. Admission of evidence concerning the sexual conduct of the complaining witness is subject to Sections 352, 782, and 1103.

CHAPTER 1073

An act to amend Section 1717 of the Civil Code, relating to attorney's fees and costs.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 1717 of the Civil Code is amended to read:

1717. (a) In any action on a contract, where the contract specifically provides that attorney's fees and costs, which are incurred to enforce the provisions of that contract, shall be awarded either to one of the parties or to the prevailing party, then the party who is determined to be the prevailing party, whether he or she is the party specified in the contract or not, shall be entitled to reasonable attorney's fees in addition to costs and necessary disbursements.

Where a contract provides for attorney's fees, as set forth above, such provision shall be construed as applying to the entire contract, unless each party was represented by counsel in the negotiation and execution of the contract, and the fact of that representation is specified in the contract.

Reasonable attorney's fees shall be fixed by the court, upon notice and motion by a party, and shall be an element of the costs of suit.

Attorney's fees provided for by this section shall not be subject to waiver by the parties to any contract which is entered into after the effective date of this section. Any provision in any such contract which provides for a waiver of attorney's fees is void.

(b) (1) The court, upon notice and motion by a party, shall determine who is the prevailing party, whether or not the suit proceeds to final judgment. Except as provided in paragraph (2), the prevailing party shall be the party who is entitled to recover costs of

suit.

(2) Where an action has been voluntarily dismissed or dismissed pursuant to a settlement of the case, there shall be no prevailing party for purposes of this section.

Where the defendant alleges in his or her answer that he or she tendered to the plaintiff the full amount to which he or she was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found to be true, then the defendant is deemed to be a prevailing party within the meaning of this section.

CHAPTER 1074

An act to add Title 5 (commencing with Section 13600) to Part 4 of the Penal Code, relating to peace officer training.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Title 5 (commencing with Section 13600) is added to Part 4 of the Penal Code, to read:

TITLE 5. YOUTH AND ADULT CORRECTIONAL PEACE OFFICER STANDARDS AND TRAINING

13600. (a) The Legislature finds and declares that peace officers of the state correctional system, including youth and adult correctional facilities, have a role in the criminal justice system that has previously been ignored in terms of creation and application of sound selection criteria for applicants and their training prior to assuming their duties. For the purposes of this section, correctional peace officers are peace officers as defined in Section 830 5 and employed by the Department of Corrections or the Department of the Youth Authority.

The Legislature further finds that sound applicant selection and training are essential to public safety and in carrying out the missions of the Youth and Correctional Agency in the custody and care of the state's offender population. The greater degree of professionalism which will result from sound screening criteria and a significant training curriculum will greatly aid the Youth and Adult Correctional Agency in maintaining smooth, efficient, and safe operations and effective programs in the Departments of Corrections and the Youth Authority.

(b) It is the intent of the Legislature that the training divisions of the Departments of Corrections and the Youth Authority shall each accomplish any research for creating permanent standards for

selection of correctional peace officer cadets and expansion of training curriculum to insure economics in selecting and training correctional peace officer staffs and to insure that cadets meet standards of physical, mental, emotional and moral fitness.

13601. The training divisions of the Department of Corrections and the Youth Authority shall create advanced correctional peace officer, supervisory, and management curricula. When a correctional peace officer is promoted, he or she shall be required to complete these secondary training experiences as a prerequisite to successful passage of probation.

The training divisions shall also provide training to correctional peace officers in the handling of stress associated with their duties.

13602. The departments shall jointly use the training academy at Galt. The training divisions, in using the funds, shall endeavor to minimize costs of administration so that a maximum amount of the funds will be used for providing training and support to correctional peace officers, while being trained, by the departments.

CHAPTER 1075

An act to amend Section 116 of the Insurance Code, relating to insurance.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 116 of the Insurance Code is amended to read:

116. (a) Automobile insurance includes insurance of automobile owners, users, dealers, or others having insurable interests therein, against hazards incident to ownership, maintenance, operation and use of automobiles, other than loss resulting from accident or physical injury, fatal or nonfatal, to, or death of, any natural person.

(b) Automobile insurance also includes any contract of warranty, or guaranty which promises service, maintenance, parts replacement, repair, money or any other indemnity in event of loss of or damage to a motor vehicle or any part thereof from any cause, including loss of or damage to or loss of use of the motor vehicle by reason of depreciation, deterioration, wear and tear, use, obsolescence or breakage if made by a warrantor or guarantor who or which as such is doing an insurance business.

(c) The making of a contract covering only defects in material and workmanship in exchange for a separately stated charge where it is merely incidental to the business of selling or leasing automobiles, shall not be deemed insurance, provided, that the maker of the contract has an insurance policy with an admitted automobile

insurer providing coverage for the making of those contracts.

The policy shall include a loss payee endorsement that provides coverage to any lending institution as its interest may appear. In addition, the contract shall conspicuously state the name and address of the licensed underwriting insurer and contain a statement that the holder shall be entitled to make a direct claim against that insurer upon the failure of the maker to pay any claim within sixty days after proof of loss has been filed with the maker. The requirements of this section shall not apply where the maker is a manufacturer, distributor, or importer of automobiles

(d) The doing or proposing to do any business in substance equivalent to the business described in this section in a manner designed to evade the provisions of this section is the doing of an insurance business.

CHAPTER 1076

An act to amend Section 798.71 of the Civil Code, and to amend Sections 18002.3, 18002.6, 18003, 18003.8, 18004, 18004.3, 18006.3, 18008.5, 18009, 18013.5, 18014, 18015, 18015.5, 18020.5, 18021, 18022, 18025, 18025.5, 18026, 18027, 18028, 18029.5, 18030, 18031, 18031.5, 18036, 18039.1, 18040, 18045.5, 18045.6, 18046.5, 18047, 18050, 18050.5, 18053.5, 18058, 18059, 18061, 18062.5, 18062.8, 18063.8, 18066.5, 18075, 18076, 18076.5, 18077, 18077.5, 18078, 18080.3, 18081, 18081.5, 18083, 18084, 18085.5, 18086, 18086.5, 18087, 18087.5, 18088, 18088.5, 18089, 18089.5, 18090, 18091.5, 18092, 18092.7, 18098, 18098.5, 18100, 18101, 18101.5, 18102, 18102.5, 18103, 18105.5, 18108, 18108.5, 18109, 18114, 18114.5, 18115, 18115.5, 18116.5, 18117, 18117.5, 18118, 18122.5, 18123, 18123.5, 18124, 18210, 18210.5, 18211, 18213, 18214, 18215, 18215.5, 18217, 18250, 18253, 18300, 18300.1, 18301, 18303, 18400, 18401, 18500.5, 18500.6, 18502, 18503, 18550, 18550.5, 18551.1, 18552, 18554, 18601, 18602, 18604, 18605, 18607, 18610, 18612, 18613, 18613.1, 18613.2, 18613.5, 18614, 18620, 18630, 18640, 18670, 18690, and 18691 of, to amend the headings of Chapter 6 (commencing with Section 18040) and Chapter 8 (commencing with Section 18075) of Part 2 of Division 13 of, and to repeal Sections 18041, 18212, 18219, and 18220 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 798.71 of the Civil Code is amended to read:

798.71. The management shall not show or list for sale a manufactured home or mobilehome without first obtaining the owner's written authorization. The authorization shall specify the terms and conditions regarding the showing or listing.

Nothing in this section shall be construed as affecting the provisions of the Health and Safety Code governing the licensing of manufactured home or mobilehome salespersons or dealers.

SEC. 2. Section 18002.3 of the Health and Safety Code is amended to read:

18002.3. "Consumer" includes any person or entity which purchases or leases a manufactured home, mobilehome, commercial coach, or recreational vehicle for consideration, except a dealer or manufacturer.

SEC. 3. Section 18002.6 of the Health and Safety Code is amended to read:

18002.6. (a) "Dealer" means a person not otherwise expressly excluded by subdivision (b), who is engaged in any of the following activities:

(1) For commission, money, or other thing of value, sells, exchanges, leases, buys, offers for sale, or negotiates or attempts to negotiate a sale or exchange of an interest in a manufactured home, mobilehome, or commercial coach, or induces or attempts to induce any person to buy or exchange an interest in a manufactured home, mobilehome, or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, management fees, or any other things of value from either the seller or purchaser of the manufactured home, mobilehome, or commercial coach.

(2) Is engaged wholly or in part in the business of selling manufactured homes, mobilehomes, or commercial coaches or buying or taking in trade manufactured homes, mobilehomes, or commercial coaches for the purpose of reselling, selling, or offering for sale, or consigning to be sold, or otherwise dealing in manufactured homes, mobilehomes, or commercial coaches, whether or not these manufactured homes, mobilehomes, or commercial coaches are owned by the dealer.

(b) "Dealer" does not include any of the following:

(1) An insurance company, bank, savings and loan association, finance company, or public official coming into possession of one or more manufactured homes, mobilehomes, or commercial coaches in the regular course of business, who only sells manufactured homes, mobilehomes, or commercial coaches under a contractual right or obligation, in performance of an official duty, or under the authority of any court of law. However, a sale subject to this paragraph shall be for the purpose of preventing the seller from suffering a loss or pursuant to the authority of a court of competent jurisdiction.

(2) Persons who sell or distribute manufactured homes, mobilehomes, or commercial coaches, subject to registration or titling pursuant to Chapter 8 (commencing with Section 18075), for a manufacturer to dealers licensed under this part, or who are employed by manufacturers or distributors to promote the sale of manufactured homes, mobilehomes, or commercial coaches dealt in by that manufacturer or distributor. However, if any person also sells manufactured homes, mobilehomes, or commercial coaches at retail,

the person is a dealer and is subject to this part.

(3) Persons regularly employed as salespersons by dealers licensed under this part while acting within the scope of that employment.

(4) Persons exclusively engaged in the bona fide business of exporting manufactured homes, mobilehomes, or commercial coaches, or of soliciting orders for the sale and delivery of manufactured homes, mobilehomes, or commercial coaches outside the territorial limits of the United States, if no federal excise tax is legally payable on any of those transactions or the tax is legally refundable on the transactions. Persons not exclusively engaged in the bona fide business of exporting manufactured homes, mobilehomes, or commercial coaches but who are engaged in the business of soliciting orders for the sale and delivery of manufactured homes, mobilehomes, or commercial coaches outside the territorial limits of the United States shall be exempt from licensure as dealers only if their gross sales proceeds from manufactured homes, mobilehomes, or commercial coaches produce less than 10 percent of their total gross revenue from all business transacted.

(5) Persons not engaged in the purchase or sale of manufactured homes, mobilehomes, or commercial coaches as a business.

(6) Persons disposing of manufactured homes, mobilehomes, or commercial coaches acquired for their own use or for use in a business of acquiring, leasing, or selling manufactured homes, mobilehomes, or commercial coaches, if the manufactured homes, mobilehomes, or commercial coaches have been so acquired and used in good faith and not acquired or used for the purpose of avoiding the provisions of this part.

(7) Persons licensed as real estate brokers who buy, sell, list, or negotiate the purchase, sale, or exchange of manufactured homes or mobilehomes pursuant to Section 10131.6 of the Business and Professions Code.

SEC. 4. Section 18003 of the Health and Safety Code is amended to read:

18003. "Distributor" means any person other than a manufacturer who sells or distributes new manufactured homes, mobilehomes, or commercial coaches to dealers in this state.

SEC. 5. Section 18003.8 of the Health and Safety Code is amended to read:

18003.8. "Franchise" means a written agreement between two or more persons having all of the following conditions:

(a) A commercial relationship of definite duration or continuing indefinite duration.

(b) The franchisee is granted the right to offer, and sell at retail, new manufactured homes, mobilehomes, or commercial coaches manufactured or distributed by the franchisor.

(c) The franchisee constitutes a component of the franchisor's distribution system.

(d) The operation of the franchisee's business is substantially

associated with the franchisor's trademark, trade name, advertising, or other commercial symbol designating the franchisor, as determined by the department.

(e) The operation of a portion of the franchisee's business is substantially reliant on the franchisor for a continued supply of new manufactured homes, mobilehomes, or commercial coaches, parts, and accessories, as determined by the department.

SEC. 6 Section 18004 of the Health and Safety Code is amended to read:

18004. "Franchisee" means any person who, pursuant to a franchise, receives new manufactured homes, mobilehomes, or commercial coaches from the franchisor and who sells manufactured homes, mobilehomes, or commercial coaches at retail.

SEC. 7. Section 18004.3 of the Health and Safety Code is amended to read:

18004.3. "Franchisor" means any person who manufactures, assembles, or distributes new manufactured homes, mobilehomes, or commercial coaches and who grants a franchise.

SEC. 8. Section 18006.3 of the Health and Safety Code is amended to read:

18006.3. (a) "Manufacturer" means any person who produces from raw materials or basic components a manufactured home, 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, manufactured homes, mobilehomes, or commercial coaches by converting them into manufactured homes, mobilehomes, or commercial coaches subject to this part.

(b) Unless a manufactured home, mobilehome, or commercial coach manufacturer either grants franchises to franchisees in this state or issues manufactured home, mobilehome, or commercial coach warranties directly to franchisees in this state or to consumers in this state, the manufacturer shall have an established place of business or a representative in this state.

SEC. 9. Section 18008.5 of the Health and Safety Code is amended to read:

18008.5. "Manufactured home or mobilehome accessory building or structure" or "manufactured home or mobilehome accessory" includes, but is not limited to, any awning, portable, demountable, or permanent cabana, ramada, storage cabinet, carport, skirting, heater, cooler, fence, windbreak, or porch established for the use of the occupant of the manufactured home or mobilehome or other equipment as defined by Section 1797.3 of the Civil Code.

SEC. 10. Section 18009 of the Health and Safety Code is amended to read:

18009. "New manufactured home," "new mobilehome," or "new commercial coach" is a manufactured home, mobilehome, or commercial coach which is not defined as a "used manufactured home," "used mobilehome", or "used commercial coach" under Section 18014, which is delivered for sale or lease in this state, and

which has not been delivered to a first purchaser or lessor for purposes other than resale or reletting.

SEC. 11. Section 18013.5 of the Health and Safety Code is amended to read:

18013.5. (a) A "transporter" is a person engaged in the business of moving any owned or lawfully possessed manufactured home, mobilehome, or commercial coach by lawful methods over the highways for the purpose of delivery of a manufactured home, mobilehome, or commercial coach to dealers, sales agents of a manufacturer, purchasers, or to a new location requested by the owner.

(b) The term "transporter" does not include a person engaged in the business of operating a tow car.

SEC. 12. Section 18014 of the Health and Safety Code is amended to read:

18014. "Used manufactured home," "used mobilehome," or "used commercial coach" means a manufactured home, mobilehome, or commercial coach that was previously sold and registered or titled with the department, or with an appropriate agency or authority, or any other state, District of Columbia, territory or possession of the United States or a foreign state, province, or country.

SEC. 13. Section 18015 of the Health and Safety Code is amended to read:

18015. The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county which conflict with the provisions of this part. The department may promulgate regulations to interpret and make specific the provisions of this part relating to construction, titling and registration, occupational licensing, advertising, commercial transactions, and other related or specifically enumerated activities, and, when adopted, these rules and regulations shall apply in all parts of the state. The department may promulgate rules and regulations to interpret and make specific the other provisions of this part and when adopted these rules and regulations shall apply in all parts of the state.

SEC. 14. Section 18015.5 of the Health and Safety Code is amended to read:

18015.5. The provisions of Chapter 4 (commencing with Section 18025), applicable to manufactured homes and mobilehomes, shall also apply to recreational vehicles and commercial coaches, except that reasonable variations in standards for recreational vehicles and commercial coaches shall be established by regulations if the department determines these variations will not endanger public health, welfare, or safety.

SEC. 15. Section 18020.5 of the Health and Safety Code is amended to read:

18020.5. (a) Any person who knowingly violates any of the provisions of this part or any rules or regulations issued pursuant to

this part, except for a violation of any federal manufactured home or mobilehome construction and safety standard for which a penalty is provided in Section 18021, is guilty of a misdemeanor, punishable by a fine not exceeding two thousand dollars ($2,000), by imprisonment not exceeding 30 days, or by both.

(b) Notwithstanding Section 801 of the Penal Code, the one-year period for filing an indictment or an information or complaint with respect to any misdemeanor in subdivision (a) by a licensee in the first sale or lease of any manufactured home, mobilehome, commercial coach, or recreational vehicle to a consumer shall commence on the date the manufactured home, mobilehome, commercial coach, or recreational vehicle is delivered to the consumer.

SEC. 16. Section 18021 of the Health and Safety Code is amended to read:

18021. (a) Any person who knowingly violates any provision of Section 5409 of Title 42 of the United States Code, or any regulation or final order issued thereunder as it exists on the effective date of this section in this state, shall be liable to the state for a civil penalty of not to exceed one thousand dollars ($1,000) for each violation. Each violation of a provision of Section 5409 of Title 42 of the United States Code, or any regulation or order issued thereunder, as it exists on the effective date of this section shall constitute a separate violation with respect to each manufactured home or mobilehome, or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed one million dollars ($1,000,000) for any related series of violations occurring within one year from the date of the first violation.

(b) Any individual or a director, officer, or agent of a corporation, who knowingly violates Section 5409 of Title 42 of the United States Code as it exists on the effective date of this section in this state in a manner which threatens the health and safety of any purchaser, shall be subject to a state fine of not more than one thousand dollars ($1,000), or by imprisonment for not more than one year, or by both such a fine and imprisonment.

SEC. 17. Section 18022 of the Health and Safety Code is amended to read:

18022. (a) The director, and other representatives of the department designated by him or her, shall enforce those provisions of law now or hereafter committed to the administration of the department pursuant to this part.

(b) Any person designated in subdivision (a) may inspect any manufactured home, mobilehome, or commercial coach of a type required to be registered under this code, or any component part thereof, in any garage, repair shop, parking lot, new or used sales facility, manufacturer's facility, display facility, or any other establishment engaged in the business of selling, repairing, or displaying manufactured homes, mobilehomes, or commercial

coaches, or the integral parts thereof, for the purpose of investigating the title and registration of the manufactured home, mobilehome, or commercial coach or sales practices thereof.

SEC. 18. Section 18025 of the Health and Safety Code is amended to read:

18025. (a) Except as provided in subdivision (b), it is unlawful for any person to sell, offer for sale, rent, or lease within this state, any manufactured home or any mobilehome manufactured after September 1, 1958, or any recreational vehicle manufactured after November 13, 1968, or any trailer coach designed or used for industrial, professional, or commercial purposes manufactured after May 25, 1967, or any commercial coach manufactured after November 23, 1970, containing plumbing, heat-producing, or electrical equipment unless the equipment meets the requirements of the department for that equipment and the installation of it. The department may promulgate those rules and regulations which shall be reasonably consistent with recognized and accepted principles for plumbing, heat-producing, and electrical equipment and installations, respectively, in order to protect the health and safety of the people of this state from dangers inherent in the use of substandard and unsafe plumbing, heat-producing, and electrical equipment and installations.

(b) All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

(c) An insignia of approval shall not be affixed to any new manufactured home or mobilehome unless the manufactured home or mobilehome has been inspected by the department while under construction pursuant to the regulations of the department under this section.

SEC. 19. Section 18025.5 of the Health and Safety Code is amended to read:

18025.5. (a) Pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.), the department is authorized to assume responsibility for enforcement of manufactured home and mobilehome construction and safety standards relating to any issue with respect to which a federal standard has been established. The department may adopt regulations to ensure acceptance by the Secretary of Housing and Urban Development of California's plan for administration and enforcement of federal manufactured home and mobilehome safety and construction standards.

(b) The department is authorized to conduct inspections and investigations which it determines may be necessary to secure enforcement of the provisions of this part and regulations adopted pursuant thereto. For the purposes of enforcement of this part and the related regulations, persons duly designated by the director of the department, upon presenting appropriate credentials to the

owner, operator, or agent in charge, may:

(1) Enter, at any reasonable times and without advance notice, any factory, warehouse, saleslot, or establishment in which manufactured homes, mobilehomes, or commercial coaches are manufactured, stored, held for sale, sold, or offered for sale, rent, or lease.

(2) Inspect, at reasonable times and within reasonable limits and in a reasonable manner, any factory, warehouse, saleslot, or establishment, and inspect the books, papers, records, and documents to ensure compliance with the provisions of this part.

SEC. 20. Section 18026 of the Health and Safety Code is amended to read:

18026 All manufactured homes, mobilehomes, recreational vehicles, and commercial coaches manufactured on or after September 1, 1958, which are sold, offered for sale, rented, or leased within this state shall bear a federal label or an insignia of approval issued by the department, whichever is appropriate, to indicate compliance with the regulations of the department adopted pursuant to this part, which were in effect on the date of manufacture of the manufactured home, mobilehome, recreational vehicle, or commercial coach.

The department may issue insignia for manufactured homes, mobilehomes, recreational vehicles, or commercial coaches manufactured prior to the effective dates of the appropriate regulations which meet the requirements of reasonable standards of health and safety as set forth in this part or the regulations adopted pursuant thereto in effect at the time of that issue. It is unlawful for any person to remove, or cause to be removed, an insignia of approval without prior authorization by the department.

SEC. 21. Section 18027 of the Health and Safety Code is amended to read:

18027. Any manufactured home, mobilehome or commercial coach which is manufactured in violation of the provisions of Chapter 11 (commencing with Section 19870) of Part 3 of Division 13 of this code, or Division 15 (commencing with Section 25004.2) of the Public Resources Code, or regulations adopted pursuant thereto, shall not be issued the department's insignia of approval.

SEC. 22. Section 18028 of the Health and Safety Code is amended to read:

18028. (a) The department may adopt regulations for the construction of commercial coaches and of manufactured homes and mobilehomes which are not subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.) which it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. The regulations for commercial coaches shall be reasonably consistent with the American National Standards Institute standards for the construction of mobilehomes, as determined by the department.

(b) All manufactured homes, including mobilehomes

manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

SEC. 23. Section 18029.5 of the Health and Safety Code is amended to read:

18029.5. (a) The department may promulgate rules and regulations, which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in manufactured homes, mobilehomes, recreational vehicles, and commercial coaches. All manufactured homes and mobilehomes manufactured on or after June 15, 1976, shall comply with the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

(b) The chief fire official of every city, county, city and county, fire protection district, or other local fire protection agency shall file a report of each manufactured home and mobilehome fire occurring within his or her jurisdiction with the State Fire Marshal. The report shall be made on forms provided by the State Fire Marshal.

The State Fire Marshal shall annually compile a statistical report of all manufactured home and mobilehome fires occurring within this state and shall furnish the department with a copy of the report. The annual report shall include, but need not be limited to, the number of manufactured home and mobilehome fires, the causes of the fires, the monetary loss, and any casualties or fatalities resulting from the fires.

SEC. 24. Section 18030 of the Health and Safety Code is amended to read:

18030. If the department determines that standards for commercial coaches and recreational vehicles, which have been prescribed by the statutes or regulations of another state, are at least equal to the standards prescribed by the department, the department may so provide by regulation. Thereafter, any commercial coaches or recreational vehicles which that other state has approved as meeting its standards shall be deemed to meet the standards of the department, if the department determines that the standards of the other state are actually being enforced.

SEC. 25. Section 18031 of the Health and Safety Code is amended to read:

18031. The department, by rules and regulations, may establish a schedule of fees to pay the costs of work related to administration and enforcement of this part. The fees collected shall be deposited in the Mobilehome-Manufactured Home Revolving Fund.

SEC. 26. Section 18031.5 of the Health and Safety Code is amended to read:

18031.5. Nothing in this part or any other provision of law shall be construed to prohibit the installation of fireplaces in manufactured homes and mobilehomes. The department shall adopt any regulations for the installation of fireplaces in manufactured

homes, mobilehomes, or commercial coaches which it may determine are reasonably necessary in order to protect the health and safety of the occupants and to assure that an installation does not impair the efficiency of the primary heating or cooling system of the manufactured home, mobilehome, or commercial coach. All manufactured homes, mobilehomes, and commercial coaches manufactured on or after June 15, 1976, which contain fireplaces, shall comply with the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

SEC. 27. Section 18036 of the Health and Safety Code is amended to read:

18036. In the event a buyer of a manufactured home or mobilehome obligates himself or herself to purchase, or receive possession of, a manufactured home or mobilehome pursuant to a contract or purchase order, and the seller knows that the buyer intends to obtain financing from a third party without the assistance of the seller, and the buyer is unable to obtain the financing within 30 days of the execution of the contract or purchase order, the contract or purchase order shall be deemed rescinded and all consideration thereupon, other than escrow fees, shall be returned by the respective parties without demand.

SEC. 28. Section 18039.1 of the Health and Safety Code is amended to read:

18039.1. Notwithstanding any other provision of law to the contrary, if a manufactured home or mobilehome is affixed to a permanent foundation pursuant to Section 18551, or security for the manufactured home or mobilehome loan includes the real property it is affixed to or installed upon, procedures for notice of default and sale shall be governed by Chapter 2 (commencing with Section 2920) of Title 14 of the Civil Code and shall not be governed by the provisions of this chapter.

SEC 29. The heading of Chapter 6 (commencing with Section 18040) of Part 2 of Division 13 of the Health and Safety Code is amended to read:

CHAPTER 6. MULTIPLE LISTING BETWEEN DEALERS OF MANUFACTURED HOMES, MOBILEHOMES, OR COMMERCIAL COACHES

SEC. 30. Section 18040 of the Health and Safety Code is amended to read:

18040. Only with respect to the sale of any manufactured home, mobilehome, or commercial coach which has not been previously installed on a foundation system pursuant to Section 18551, a dealer may solicit or obtain listings, engage in the multiple listing only with other dealers, or engage in payments only to other dealers or groups of dealers, pursuant to cooperative brokering and referral arrangements or agreements on the sale of only a manufactured home, mobilehome, or commercial coach which has been titled by

the department.

SEC. 31. Section 18041 of the Health and Safety Code is repealed.

SEC. 32. Section 18045.5 of the Health and Safety Code is amended to read:

18045.5. (a) The department shall not issue a dealer's license to any applicant therefor who does not have an established place of business.

(b) The established place of business shall have an office and, in the case of a dealer or manufacturer, shall have a display or manufacturing area defined by department regulations situated on the same property where the business peculiar to the type of license issued by the department is or may be transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single-unit or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to, and occupied for, the office or offices of the licensee, shall be located on the ground floor, and shall provide a direct entrance into the room or rooms from the exterior of the building. The established place of business shall be open for inspection of the premises, pertinent records, and manufactured homes, mobilehomes, or commercial coaches by any department representative during business hours.

SEC. 33. Section 18045.6 of the Health and Safety Code is amended to read:

18045.6. (a) If the dealer changes the site or location of his or her established place of business, the dealer shall immediately, upon making such a change, so notify the department. If a dealer for any reason whatsoever, ceases to be in possession of an established place of business from and on which he or she conducts the business for which the dealer is licensed, he or she shall immediately notify the department and, upon demand by the department, shall deliver to the department the dealer's license and all relevant records in his or her possession.

(b) If the dealer changes to, or adds another franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, or cancels, or, for any cause whatever, otherwise loses a franchise for the sale of new manufactured homes, mobilehomes, or commercial coaches, he or she shall immediately so notify the department.

(c) A dealer's established place of business shall have posted in a place conspicuous to the public the license issued by the department to the dealer and to each salesperson employed by the dealer.

(d) Notwithstanding the provisions of Section 18050 and this section, a dealer may display manufactured homes, mobilehomes, or commercial coaches at a fair, exposition, or similar exhibit for no more than 30 days upon receipt of a branch license. As used in this section, "mobilehome fair or exposition" means a display of manufactured homes, mobilehomes, or commercial coaches not limited to one dealer, except in a mobilehome park.

Manufactured homes or mobilehomes, installed pursuant to

Section 18613, may also be displayed and sold within a mobilehome park or mobilehome subdivision upon receipt of a branch license.

(e) The display area required by subdivision (b) of Section 18045.5, shall not apply to any dealers' secondary locations located outside of mobilehome parks or subdivisions selling only used manufactured homes, mobilehomes, and commercial coaches.

(f) All manufactured homes, mobilehomes, or commercial coaches displayed pursuant to subdivision (d) or (e) shall be identified by a sign or device providing information relating to the dealer's name and the location and address of the dealer's established place of business and any other information that is required by the department.

(g) The display area and office required by subdivision (b) of Section 18045.5 shall not apply to a location licensed as a branch pursuant to this part.

SEC. 34. Section 18046.5 of the Health and Safety Code is amended to read:

18046.5. The director may order a refund of a cash deposit or release an assignment of an investment certificate, share account, or bank deposit posted or filed with the department pursuant to Section 18046 at the expiration of three years from the date an applicant for a dealer's license, who has operated a business of selling manufactured homes, mobilehomes, or commercial coaches under a temporary permit, has ceased to do business, or three years from the date a licensee has ceased to be licensed, if the director is satisfied that there are no outstanding claims against the funds deposited or assigned. A judge of a municipal or superior court may order the return of a cash deposit or release of assignment of such an investment certificate, share account, or bank deposit posted or filed with the department prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the security so deposited by the applicant or licensee.

If either the director, department, or state is a defendant in any action instituted to recover all or any part of the deposited cash, investment certificates, share accounts, or bank deposits, or any action is instituted by the director, department, or state to determine those entitled to any part of those funds, the director, department, or state shall be paid reasonable attorneys' fees and costs from the funds. Costs shall include those administrative costs incurred in processing claims against the security posted in lieu of bond pursuant to Section 18046.

SEC. 35. Section 18047 of the Health and Safety Code is amended to read:

18047. (a) If any person suffers any loss or damage by reason of any fraud practiced on him or her or fraudulent representation made to him or her by a licensed dealer or one of the dealer's salespersons acting for the dealer, in his or her behalf, or within the scope of the employment of the salesperson and such a person has possession of a written instrument furnished by the licensee containing stipulated

provisions and guarantees which the person believes have been violated by the licensee, or if any person suffers any loss or damage by reason of the violation by the dealer or salesperson of any of the provisions of Chapter 8 (commencing with Section 18075) of this part or Division 3 (commencing with Section 4000) of the Vehicle Code, or if any person is not paid for a manufactured home, mobilehome, or commercial coach sold to and purchased by a licensee, that person has a right of action against the dealer, his or her salesperson, and the surety upon the dealer's bond in an amount not to exceed the value of the manufactured home, mobilehome, or commercial coach purchased from or sold to the dealer.

(b) If the state or any political subdivision thereof suffers any loss or damage by reason of any fraud practiced on the state or fraudulent representation made to the state by a licensed dealer, or one of the dealer's representatives acting for the dealer, in his or her behalf, or within the scope of employment of representatives, or if the state or any political subdivision thereof suffers any loss or damage by reason of the violation of the dealer or representative of any of the provisions of this code or Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, the state or any political subdivision thereof, through the department, shall have a right of action against the dealer, his or her representative, and the surety upon the dealer's bond in an amount not to exceed the value of the manufactured homes, mobilehomes, or commercial coaches involved.

(c) The failure of a dealer, upon demand, to pay the fees and penalties determined to be due as provided in Chapter 8 (commencing with Section 18075) or Section 4456 of the Vehicle Code is a violation of this part, Division 3 (commencing with Section 4000) of the Vehicle Code, and Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code and is a loss or damage to the state in the amounts of the fees and penalties determined to be due and not paid

(d) The claims of the state under subdivision (b) shall be satisfied first and entitled to preference over all claims under subdivision (a).

(e) The claims of any person under subdivision (a) who is not a licensee shall be satisfied first and entitled to preference over all other claims under subdivision (a).

SEC. 36. 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 previous six months of the appropriate department examination and proof of his or her status as a bona fide manufacturer, distributor, 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. 37. Section 18050.5 of the Health and Safety Code is amended to read:

18050.5. The department may, for a reasonable cause shown, refuse to issue a license to an applicant when it determines any of the following:

(a) The applicant was previously the holder of a license, which license was revoked for cause and never reissued, or which license was suspended for cause and the terms of suspension have not been fulfilled.

(b) The applicant was previously a limited or general partner, stockholder, director, general manager, or officer of a partnership or corporation whose license 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 partnership or corporation, of which one or more of the limited or general partners, stockholders, directors or officers was previously the holder or a limited or general partner, stockholder, director or officer of a partnership or corporation whose license was revoked for cause and never reissued or was suspended for cause and the terms of suspension have not been fulfilled, or by reason of the facts and circumstances touching the organization, control, and management of the partnership or corporation business the policy of the business will be directed, controlled, or managed by individuals, who, by reason of their conviction of violations of the provisions of this part, would be ineligible for a license and by licensing the corporation or partnership the purposes of this part would likely be defeated.

(d) The applicant, or one of the limited or general partners, if the applicant be a partnership, or one or more of the officers or directors of the corporation, if the corporation be the applicant, or one or more of the stockholders, if the policy of the business will be directed, controlled, or managed by that stockholder or stockholders, 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

18050 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 the applicant was the licensee, or a copartner, officer, director, or stockholder of that licensee.

(h) The existence of any of the causes specified in Section 18058 as a cause to suspend or revoke the license issued to a licensee.

(i) An applicant for a dealer's license has failed to effectively endorse an authorization for disclosure of an account or accounts relating to the operation of the dealership, as provided for in Section 7473 of the Government Code.

(j) The applicant has outstanding an unsatisfied final judgment rendered in connection with an activity licensed under this part.

(k) The applicant or licensee has failed to pay over funds or property received in the course of employment to a dealer entitled thereto.

(*l*) The applicant has acted as a manufactured home, mobilehome, or commercial coach salesperson or engaged in this activity for, or on behalf of, more than a single person whose business does not have identical ownership and structure. The 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 manufactured home, mobilehome, or commercial coach salesperson from working at more than one location of a single dealer, if the business of the dealer has identical ownership and structure.

SEC. 38. Section 18053.5 of the Health and Safety Code is amended to read:

18053.5. (a) Except as otherwise provided in this section, every applicant for a manufactured home, mobilehome, or commercial coach dealer's or salesperson's license, and every manufactured home, mobilehome, or commercial coach salesperson who commences working for a manufactured home, mobilehome, or commercial coach dealer, shall be required to take, and successfully complete, a written examination, prepared and administered by the department. The examination shall include, but not be limited to, subjects relating to manufactured homes, mobilehomes, and commercial coaches, laws relating to contracts for the sale of manufactured homes, mobilehomes, and commercial coaches, laws covering truth in lending, and departmental and warranty requirements.

(b) The department may administer an oral examination in lieu of the written examination required by subdivision (a) under the following conditions:

(1) To any person who applies for a manufactured home, mobilehome, or commercial coach salesperson's license.

(2) To any person who applies for a manufactured home, mobilehome, or commercial coach dealer's license if the person is not the sole owner of the dealership and there are other persons within

the ownership structure who meet the requirements of subdivision (a).

(3) To any person with a physical handicap if the handicap makes the taking of a written examination unreasonable.

(c) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has, continuously, for the same employer, been a salesperson of manufactured homes, mobilehomes, or commercial coaches, shall be required to take the examination specified in subdivision (a).

(d) No person, who, on July 1, 1976, held a then valid salesperson's license issued pursuant to the Vehicle Code and who has continuously been a manufactured home, mobilehome, or commercial coach dealer, shall be required to take the examination specified in subdivision (a), regardless of whether the person subsequently makes an application to do business under a different name or form of business organization. However, a salesperson of manufactured homes, mobilehomes, or commercial coaches who makes an application for a manufactured home, mobilehome, or commercial coach dealer's license shall be required to take, and successfully complete, the examination specified in subdivision (a).

(e) If the applicant for a manufactured home, mobilehome, or commercial coach dealer's license is a corporation or partnership, only those persons who will participate in the direction, control, or management, or any combination thereof, of the sales operations of the business, or who act in the capacity of a manufactured home, mobilehome, or commercial coach salesperson, shall be required to take and successfully complete the examination specified in subdivision (a). However, if no officer or director of the corporation or a partner, or the partners thereof participates in the direction, control, or management, or any combination thereof, of the sales operations of the business, or acts in the capacity of a manufactured home, mobilehome, or commercial coach salesperson, the corporation or partnership shall designate and maintain a responsible managing employee who is a licensed manufactured home, mobilehome, or commercial coach salesperson and who shall be required to take, and successfully complete, the examination specified in subdivision (a) for a dealer's license before a dealer's license may be issued.

(f) Every person who applies to the department to take the examination required under this section for a dealer's or salesperson's license shall pay to the department a fee established by the department

SEC. 39. Section 18058 of the Health and Safety Code is amended to read:

18058. It is unlawful, and a violation of this part, if a person to whom a license is issued is any of the following:

(a) Not lawfully entitled thereto.

(b) Has violated any of the provisions of this part or of Section 18613 or 18551, or any rule, order, or regulation issued pursuant

thereto.

(c) Has committed or omitted any of the acts or omissions set forth in Sections 18058.5 through 18063.5, inclusive.

The department, after notice and hearing, may suspend or revoke the license issued to a licensee upon determining that these acts or omissions occurred or are in existence.

SEC. 40. Section 18059 of the Health and Safety Code is amended to read:

18059. With respect to taxation, fees, title, and registration, it is unlawful to do any of the following:

(a) Use a false or fictitious name, knowingly make any false statement, or knowingly conceal any material fact in any application for title or registration of a manufactured home, mobilehome, or commercial coach, or otherwise commit a fraud in that application.

(b) Fail to deliver to a transferee lawfully entitled thereto a properly endorsed title or registration.

(c) Violate 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 18015 of this part.

SEC. 41. Section 18061 of the Health and Safety Code is amended to read:

18061. With respect to advertising, it is unlawful:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or by any other manner or means whatsoever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading, or to so make or disseminate or cause to be so disseminated any statement as part of a plan or scheme with the intent not to sell any manufactured home, mobilehome, or commercial coach or service so advertised at the price therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any manufactured home, mobilehome, or commercial coach not actually for sale at the premises of the dealer or available to the dealer from the manufacturer or distributor of the manufactured home, mobilehome, or commercial coach at the time of the advertisement or offer. However, this subdivision does not apply to advertising or offering for sale or exchange any used manufactured home, used mobilehome, or used commercial coach, other than a recreational vehicle, where the advertising or offering for sale is not contrary to any terms of a contract between the seller of the manufactured home, mobilehome, or commercial coach and the owner of the mobilehome park, and which manufactured home, mobilehome, or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued

presence and use would be authorized for a total and uninterrupted period of at least one year.

(c) To fail, within 48 hours, in writing, to withdraw any advertisement of a manufactured home, mobilehome, or commercial coach that has been sold or withdrawn from sale.

(d) To advertise or represent a manufactured home, mobilehome, or commercial coach as a new manufactured home, mobilehome, or commercial coach if the manufactured home, mobilehome, or commercial coach has been previously installed as a model without also advertising that it was a model.

(e) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his or her behalf, or at his or her established place of business, that no downpayment is required in connection with the sale of a manufactured home, mobilehome, or commercial coach when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the manufactured home, mobilehome, or commercial coach.

SEC. 42. Section 18062.5 of the Health and Safety Code is amended to read:

18062.5. It is unlawful for any manufacturer or distributor to coerce or attempt to coerce any dealer in this state to do any of the following:

(a) Order or accept delivery of any manufactured home, mobilehome, or commercial coach, part or accessory thereof, appliance, equipment or any other commodity not required by law which shall not have been voluntarily ordered by the dealer.

(b) Order or accept delivery of any manufactured home, mobilehome, or commercial coach with special features, appliances, accessories or equipment not included in the list price of the manufactured home, mobilehome, or commercial coach as publicly advertised by the manufacturer or distributor.

(c) Order for any person any parts, accessories, equipment, machinery, tools, appliances, or any commodity whatsoever.

(d) Participate in an advertising campaign or contest, any promotional campaign, promotional materials, training materials, showroom or other display decorations or materials at the sole expense of the dealer.

(e) Enter into any agreement with the manufacturer or distributor or to do any other act prejudicial to the dealer by threatening to cancel a franchise or any contractual agreement existing between the dealer and manufacturer or distributor. Notice in good faith to any dealer of the dealer's violation of any terms or provisions of the franchise or contractual agreement shall not constitute a violation of this section.

SEC. 43. 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 part 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 manufactured home, mobilehome, or commercial coach sold or distributed by the manufacturer or distributor, any new manufactured home, mobilehome, or commercial coach or parts or accessories to new manufactured homes, 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 or distributor.

(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 manufactured homes, 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 manufactured homes, mobilehomes, and commercial coaches in the dealer's inventory which were subject to the price reduction. Price differences applicable to new model or series manufactured homes, 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 manufactured home, 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 manufactured homes, 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 manufactured home, mobilehome, or commercial coach of a prior year model is in the dealer's inventory at the time of introduction of new model manufactured homes, 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 manufactured homes, 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 manufactured homes, 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.

(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 manufactured homes, 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. 44. Section 18063.8 of the Health and Safety Code is amended to read:

18063.8. The department may refuse to issue a decal pursuant to subdivision (b) of Section 18054, or, after notice and hearing, may revoke or suspend the privilege of utilizing such a decal, if any of the following occurs or exists:

(a) The transporter's certificated authority from the Public Utilities Commission to act as a transporter is revoked, is suspended, or does not meet other Public Utilities Commission requirements.

(b) The transporter moves a manufactured home, mobilehome, or commercial coach subject to registration pursuant to this part from a mobilehome park or other site of installation to another location without obtaining a signed legal consent form as required by Section 18082.

SEC. 45. Section 18066.5 of the Health and Safety Code is amended to read:

18066.5. If a purchaser of a manufactured home, mobilehome, or commercial coach pays to the dealer an amount for transfer of title of the manufactured home, mobilehome, or commercial coach, which amount is in excess of the actual fees due for the transfer, or which amount is in excess of the amount which has been paid, prior to the sale, by the dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees, the dealer shall return the excess amount to the purchaser, whether or not the purchaser requests the return of the excess amount.

SEC. 46. The heading of Chapter 8 (commencing with Section 18075) of Part 2 of Division 13 of the Health and Safety Code is amended to read:

CHAPTER 8. REGISTRATION AND TITLING OF MANUFACTURED HOMES, MOBILEHOMES, AND COMMERCIAL COACHES

SEC. 47. Section 18075 of the Health and Safety Code is amended to read:

18075. (a) On and after July 1, 1981, all manufactured homes, mobilehomes, and commercial coaches shall be subject to the provisions of this code for the purposes of titling and registration.

(b) The department shall promulgate, adopt, and amend as necessary, regulations to implement, interpret, and make specific the provisions of this chapter. Departmental regulations shall provide for an orderly and economical transfer of registrations and titles for manufactured homes, mobilehomes, and commercial coaches previously issued by the Department of Motor Vehicles to those issued by the department. Any registration, title, or decal issued by the Department of Motor Vehicles shall be valid until renewed, replaced, transferred, suspended, or revoked.

(c) The department may establish a schedule of fees to pay the costs of work related to administration and enforcement of this chapter except where the fees are expressly stated herein.

SEC. 48. Section 18076 of the Health and Safety Code is amended to read:

18076. Manufactured homes, mobilehomes, and commercial coaches owned or leased by the United States, by any foreign government, by a consul or other official representative or any foreign government, by the state, by a political subdivision of the state, or by any city, county, or city and county, or public corporation shall be subject to registration under this code by the person having custody thereof, but shall not be subject to the registration fees specified in this code or the Revenue and Taxation Code, and that person shall display upon the manufactured home, mobilehome, or commercial coach a decal bearing distinguishing marks or symbols which shall be furnished by the department free of charge.

SEC. 49. Section 18076.5 of the Health and Safety Code is amended to read:

18076.5. Commencing July 1, 1981, the department shall administer the annual licensing and taxation of all manufactured homes and mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code and not installed on a foundation system pursuant to Section 18551, and all commercial coaches. The department may promulgate rules and regulations for the orderly transfer of the licensing and taxation functions from the Department of Motor Vehicles, and for their administration thereafter.

SEC. 50. Section 18077 of the Health and Safety Code is amended to read:

18077. (a) All manufactured home, mobilehome, or commercial coach license fees collected by the department pursuant to Section 18115 shall be reported monthly to the Controller and at the same

time deposited in the State Treasury in the Manufactured Home License Fee Account in the General Fund, which is hereby created.

(b) The money in the Manufactured Home License Fee Account is hereby continuously appropriated to the Controller who shall disburse to the auditor of each county the net amount of money shown by the report made pursuant to Section 18077.5 to have been collected in manufactured home, mobilehome, or commercial coach taxes on manufactured homes, mobilehomes, or commercial coaches having situs within that county.

(c) The money disbursed to the auditor of each county shall be distributed by that auditor in the same manner and proportions as described in Section 11003.4 of the Revenue and Taxation Code.

SEC. 51. Section 18077.5 of the Health and Safety Code is amended to read:

18077.5 On or after the first day of January and the first day of July of each year, the department shall report to the auditor of each county the address at which each manufactured home, mobilehome, or commercial coach has situs within the county on which license fees under this article have been paid to the department during the six-month period immediately preceding January 1st and July 1st, respectively, and the amount paid on each manufactured home, *mobilehome, or commercial coach*

At the time the department reports to the county auditors, it shall also report to the Controller the information described in the preceding paragraph, or a summary thereof, for each of the counties.

SEC. 52. Section 18078 of the Health and Safety Code is amended to read.

18078. The department shall receive and process petitions for the reinstatement to the license fee of manufactured homes or mobilehomes which have become subject to local property taxation because the license fee has been delinquent 120 days or more, as provided by law.

SEC. 53. Section 18080.3 of the Health and Safety Code is amended to read·

18080.3 (a) For the purposes of registration of manufactured homes and mobilehomes pursuant to this chapter, a manufactured home or mobilehome shall include as a single unit with one registration, two or more sections that are manufactured, fabricated, or altered for use as a single manufactured home or mobilehome.

(b) Each transportable section of a commercial coach shall be registered and titled separately.

SEC 54. Section 18081 of the Health and Safety Code is amended to read:

18081. (a) Any person may request, and the department shall furnish, information regarding the current registration and title status of a manufactured home, mobilehome, or commercial coach. The department shall provide forms for these requests, shall establish a standard format for providing the information, and may charge fees to pay the cost of furnishing this information.

(b) Upon receipt of a properly executed request for information and the payment of prescribed fees, the department shall provide the information within five working days by first-class mail to the address indicated on the request. The department may adopt procedures for providing the information by electronic facsimile in addition to mailing that information.

SEC. 55. Section 18081.5 of the Health and Safety Code is amended to read:

18081.5. The transferee of a manufactured home or mobilehome subject to local property taxation shall report the change in ownership information to the assessor in the county where the manufactured home or mobilehome is sited, as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code, unless it is reported pursuant to subdivision (e) of Section 18080.5.

SEC. 56. Section 18083 of the Health and Safety Code is amended to read·

18083. (a) On or before the last day of each calendar month, the department shall furnish to the county assessor of the county in which a manufactured home or mobilehome is sited a listing of all manufactured homes and mobilehomes in that county for which the license or registration fee has become delinquent for a period of 120 days or more since the last listing was furnished, as provided in Section 10759.5 of the Revenue and Taxation Code, and a listing of all new registrations and transfers of titles to manufactured homes and mobilehomes sited, or to be sited, in that county.

(b) Each listing shall show all of the following:

(1) The name and address of the registered owner and legal owner, if any, the license number, the year model, the make, and the vehicle identification number of the manufactured home or mobilehome.

(2) The county where the manufactured home or mobilehome is located.

(3) The expiration date of the last registration and the amount of any delinquent license or registration fees and the amount of any applicable penalties.

(4) Any other information to which the department and the assessors shall agree.

SEC. 57. Section 18084 of the Health and Safety Code is amended to read:

18084. With respect to manufactured homes and mobilehomes, commencing January 1, 1982, the registration card issued to the owner shall be in two parts. One part is to be retained in the vehicle as required by Section 18080.5.

The other part shall be filed by the owner with the mobilehome park operator, if the manufactured home or mobilehome is situated in a mobilehome park. The two parts shall contain identical registration information, except that the part to be filed with the mobilehome park operator shall bear the notation "Duplicate copy

to be filed with the mobilehome park operator as required by law."

SEC. 58. Section 18085.5 of the Health and Safety Code is amended to read:

18085.5. The department shall not accept an application for the original registration of a manufactured home, mobilehome, or commercial coach unless the manufactured home, mobilehome, or commercial coach at the time of application is within the state or unless the provisions of this part have been complied with.

SEC. 59. Section 18086 of the Health and Safety Code is amended to read:

18086. The department may accept an application for registration of a manufactured home, mobilehome, or commercial coach which is not within the state, but which is to be registered to a resident of this state, at the time all documents and fees, as determined by the department in accordance with the provisions of this chapter, are submitted to the department. Any fees submitted pursuant to this section shall not be subject to refund based upon the fact that the manufactured home, mobilehome, or commercial coach is not and has not been within this state.

SEC. 60. Section 18086.5 of the Health and Safety Code is amended to read:

18086.5. (a) In the absence of the regularly required supporting evidence of ownership and upon application for registration or transfer of a manufactured home, mobilehome, or commercial coach, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the manufactured home, mobilehome, or commercial coach, any person acquiring a lien or security interest thereon, or the successor in interest of that purchaser or that person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the manufactured home, mobilehome, or commerical coach.

(b) Any interested person shall have a right of action to recover on any bond or undertaking for any breach of the conditions for which the bond was deposited, but the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond. In the event the manufactured home, mobilehome, or commercial coach is no longer subject to registration in this state and the currently valid certificate of title is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or, prior thereto, at the discretion of the department.

SEC. 61. Section 18087 of the Health and Safety Code is amended to read:

18087. Upon application for registration of a manufactured home, mobilehome, or commercial coach previously registered outside this state, the application shall be certified by the applicant and shall state that the manufactured home, mobilehome, or commercial coach

previously has been registered outside this state, the time and place of the last registration of the manufactured home, mobilehome, or commercial coach outside this state, the name and address of the governmental officer, agency, or authority making the registration, and any further information relative to its previous registration as may reasonably be required by the department, including the time and place of original registration, if known, and if different from the last foreign registration.

SEC. 62. Section 18087.5 of the Health and Safety Code is amended to read:

18087.5. (a) The applicant for registration under this part of a manufactured home, mobilehome, or commercial coach previously registered outside this state shall surrender to the department all unexpired license plates, seals, certificates, or other evidence of foreign registration which are in the applicant's possession or under the applicant's control. The department may require a certification from the jurisdiction of last registry when the applicant fails to surrender the last issued unexpired license plates.

(b) Upon application made at the time of their surrender to the department and upon payment of a fee of three dollars ($3), the department shall return the unexpired license plates to the official in charge of the registration of manufactured homes, mobilehomes, or commercial coaches in the state of issue of the license plates.

SEC. 63. Section 18088 of the Health and Safety Code is amended to read:

18088. (a) Upon application for registration of a manufactured home, mobilehome, or commercial coach previously registered outside this state, the department shall grant full faith and credit to the currently valid certificate of title describing the manufactured home, mobilehome, or commercial coach, the ownership thereof, and any liens thereon, issued by the state in which the vehicle was last registered, except there shall be a notation upon the certificate of title of any and all liens and encumbrances other than those dependent upon possession.

(b) In the absence of knowledge by the department that any certificate of title issued by another state is forged, fraudulent, or void, the acceptance thereof by the department shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the department by reason of so accepting a certificate of title.

SEC. 64. Section 18088.5 of the Health and Safety Code is amended to read:

18088.5. If a certificate of title issued by another state shows any lien or encumbrance upon the manufactured home, mobilehome, or commercial coach therein described, the department, upon registering the manufactured home, mobilehome, or commercial coach in this state and upon issuing a certificate of title, shall include therein the name of the legal owner and lienholders, if any, unless

documents submitted with the foreign certificates of title establish that the lien or encumbrance has been fully satisfied.

SEC. 65. Section 18089 of the Health and Safety Code is amended to read:

18089. In the event application is made in this state for registration of a manufactured home, mobilehome, or commercial coach and the department is not satisfied as to the ownership of the manufactured home, mobilehome, or commercial coach or the existence of foreign liens thereon, then the department may register the manufactured home, mobilehome, or commercial coach and issue a registration card with distinctive markings, but shall withhold issuance of a California certificate of title, unless the applicant presents documents sufficient to reasonably satisfy the department of the applicant's ownership of the manufactured home, mobilehome, or commercial coach and the absence of any liens thereon or posts a bond pursuant to subdivision (a) of Section 18086.5.

SEC. 66. Section 18089.5 of the Health and Safety Code is amended to read:

18089.5. In the event the department refuses to grant an application for registration in this state of a manufactured home, mobilehome, or commercial coach previously registered in another state, the department shall immediately return to the applicant all documents submitted by the applicant with the application.

SEC. 67. Section 18090 of the Health and Safety Code is amended to read:

18090. The department shall forthwith mail a notice of the filing of any application for registration of a manufactured home, mobilehome, or commercial coach previously registered outside this state upon written request of the governmental officer, agency, or authority which made the last registration of the manufactured home, mobilehome, or commercial coach outside this state. The notice shall contain the same data as required on the application filed with the department. This section shall not apply to manufactured homes, mobilehomes, or commercial coaches last registered in a foreign province or country.

SEC. 68. Section 18091.5 of the Health and Safety Code is amended to read:

18091.5. The registration card for a manufactured home, mobilehome, or commercial coach shall contain all of the following:

(a) The date issued.

(b) The information required by Section 18085 in the application for registration.

(c) The registration number assigned to the manufactured home, mobilehome, or commercial coach.

(d) The date of expiration, where applicable.

(e) Any other information as the department prescribes by regulation.

The department may modify the form, arrangement, and

information appearing on the registration card and may provide for standardization and abbreviations whenever the efficiency of the department will be promoted thereby, except that general delivery or post office boxes shall not be permitted as the address of the registered owner unless there is no other address.

SEC. 69. Section 18092 of the Health and Safety Code is amended to read:

18092. (a) Every manufactured home, mobilehome, or commercial coach subject to registration shall be issued a registration decal. The design of the decal shall be determined by the director and the decal shall be issued by the department. The decal shall be at least 2½ inches high and 2½ inches wide.

(b) The decals shall be applied to the outside of the mobilehome or commercial coach in a location within 15 inches of the lower front right-hand side which is clearly visible and these decals shall be maintained in a condition so as to be clearly legible.

(c) The director, after consultation with county assessors, shall prescribe a registration decal for manufactured homes and mobilehomes subject to registration which clearly indicates, by color or otherwise, whether or not the manufactured home or mobilehome is subject to annual registration with the department or is subject to local property taxation and this decal shall have provisions for indicating the current status of any registration fee.

SEC. 70. Section 18092.7 of the Health and Safety Code is amended to read:

18092.7. The department shall withhold the registration or transfer of registration of any manufactured home or mobilehome, other than a new manufactured home or mobilehome for which application is being made for an original registration, until the applicant presents a tax clearance certificate issued pursuant to Section 5832 of the Revenue and Taxation Code by the tax collector of the county where the manufactured home or mobilehome is located.

SEC. 71. Section 18098 of the Health and Safety Code is amended to read:

18098. Whenever any person, after making application for the registration of a manufactured home, mobilehome, or commercial coach required to be registered under this part, or after obtaining registration or being recorded on the permanent title record of the manufactured home, mobilehome, or commercial coach registration as registered owner, legal owner, or junior lienholder, moves, acquires a new permanent address, or where a person other than the registered owner assigns his or her interest to any other person different from that shown on the certificate of title, the registration card, or the application therefor, that person shall, within 10 days thereafter, notify the department of both the old and new address. No penalty shall arise from failure to notify the department pursuant to this section, nor shall the department or any other person have liability for any notification required by law or regulation other than

first-class mailing to the permanent address of record.

SEC. 72. Section 18098 5 of the Health and Safety Code is amended to read

18098.5. Any registered owner of a manufactured home, mobilehome, or commercial coach, who moves or acquires a new permanent address different from the address shown upon the registration card issued for the manufactured home, mobilehome, or commercial coach, shall, within 10 days, mark out the former address shown on the face of the card and indelibly write or type the new address on the face of the card immediately below the former address and initial this change.

SEC. 73. Section 18100 of the Health and Safety Code is amended to read:

18100. Any registered owner, legal owner, or junior lienholder who moves, permits to be moved, or causes to be moved, a manufactured home or mobilehome subject to registration under this part shall apply to the department within 10 days therefrom for an amended registration card upon forms provided by the department and with fees for an amended registration card as prescribed by the department. The application shall include, but not be limited to, all of the following:

(a) A copy of the written consent form required by Section 18099.5.

(b) Any information which the department may require relating to the new situs location.

(c) The current registration card

In the event that the new situs location cannot be determined at the time of application, the application shall so indicate and the department shall hold the application in suspense until this information is received. The applicant or the applicant's agent shall, immediately upon determining a new situs address where the manufactured home or mobilehome is to be installed for occupancy, notify the department of the new situs address.

Upon receipt of the completed application the department shall issue an amended registration card for the manufactured home or mobilehome to the registered owner.

SEC. 74. Section 18101 of the Health and Safety Code is amended to read:

18101. No transfer of the title of a manufactured home, mobilehome, or commercial coach registered under this code shall be effective until the transferor has made proper endorsement and delivery of the certificate of title and delivery of the registration card to the transferee as provided in this code.

SEC. 75. Section 18101.5 of the Health and Safety Code is amended to read:

18101.5. When the transferee of a manufactured home, mobilehome, or commercial coach is a dealer who holds it for resale and moves it upon the highways under transportation decals, the dealer is not required to make application for transfer, but upon

transferring his or her title or interest to another person he or she shall comply with this chapter.

SEC. 76. Section 18102 of the Health and Safety Code is amended to read:

18102. Upon the death of a registered or legal owner of a manufactured home, mobilehome, or commercial coach registered under this part, without the decedent leaving other property necessitating probate, unless the manufactured home, mobilehome, or commercial coach is, by will, otherwise bequeathed, and irrespective of the value of the manufactured home, mobilehome, or commercial coach, the surviving heir or beneficiary in the order named in Section 630 of the Probate Code may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(a) The appropriate certificate of title and registration card, if available.

(b) A certified statement of the heir or beneficiary setting forth his or her interest in the estate of the decedent.

(c) The names and addresses of any other heirs or beneficiaries.

(d) If required by the department, a certificate of the death of the decedent.

(e) A statement that there are no creditors of the decedent or, if so, that the creditors of the decedent have been paid in full or their claims have been otherwise discharged.

SEC. 77. Section 18102.5 of the Health and Safety Code is amended to read:

18102.5. If application is made to the department for a transfer of registration of a manufactured home, mobilehome, or commercial coach to a new registered or legal owner and if the applicant is unable to present the certificate of title or registration card issued for the manufactured home, mobilehome, or commercial coach because it is lost or otherwise not available, the department may receive the application and investigate the circumstances of the case and may require the filing of certifications or other information. When the department is satisfied that the applicant is entitled to a transfer of registration, the department may transfer the registration of the manufactured home, mobilehome, or commercial coach, and issue a new certificate of title and registration card to the person or persons found to be entitled thereto.

SEC. 78. Section 18103 of the Health and Safety Code is amended to read:

18103. Whenever application is made to the department for a transfer of registration of a manufactured home, mobilehome, or commercial coach to a new registered or legal owner and the applicant is unable to present the registration card issued for the manufactured home, mobilehome, or commercial coach because it is in the possession of the department upon an application for renewal of registration, the department may transfer the registration of the manufactured home, mobilehome, or commercial coach upon

production of the properly endorsed certificate of title to the manufactured home, mobilehome, or commercial coach and a temporary receipt, on a form prescribed by the department containing any information that the department deems necessary, including, but not limited to, the registration decal number assigned to the manufactured home, mobilehome, or commercial coach and the serial number of the manufactured home, mobilehome, or commercial coach and accompanied by the amount of fees for renewal of the registration.

SEC. 79. Section 18105.5 of the Health and Safety Code is amended to read:

18105.5. A legal owner or junior lienholder may assign title or interest to a manufactured home, mobilehome, or commercial coach subject to registration under this part without the consent of and without affecting the interest of the registered owner or other lien holders.

SEC. 97. Section 18108 of the Health and Safety Code is amended to read:

18108. If any registration card or registration decal is stolen, lost, mutilated, or illegible, the registered owner of the manufactured home, mobilehome, or commercial coach for which it was issued, as shown by the records of the department, shall immediately make application for, and may, upon the applicant furnishing information satisfactory to the department and the required fees, obtain a duplicate, substitute, or new registration under a new registration number, as determined by the department.

SEC. 80. Section 18108.5 of the Health and Safety Code is amended to read:

18108.5. If any certificate of title is stolen, lost, mutilated, or illegible, the legal owner of the manufactured home, mobilehome, or commercial coach for which it was issued as shown by the records of the department shall immediately make application for, and may, upon payment of required fees and the applicant furnishing information satisfactory to the department, obtain a duplicate certificate of title.

SEC. 81. Section 18109 of the Health and Safety Code is amended to read:

18109. Except as otherwise provided in this part, every registration card for a manufactured home, mobilehome, or commercial coach subject to annual registration shall expire at midnight on the expiration date indicated on the registration card and shall be renewed prior to that expiration. The department, upon presentation by the registered owner of the registration card or potential registration card last issued and receipt of the proper renewal fees, shall renew the registration of a manufactured home, mobilehome, or commercial coach.

SEC. 82. Section 18114 of the Health and Safety Code is amended to read

18114. An annual registration fee of eleven dollars ($11) shall be

paid the department at the time of registration or renewal for each transportable section of a manufactured home, mobilehome, or commercial coach registered pursuant to this part. A registration fee not paid on or before the expiration of the previous registration year is delinquent. A charge of three dollars ($3) for each transportable section shall be added to delinquent registration fees. No additional charge shall be imposed on a registration fee received by mail after the date of delinquency if the fee was, by evidence of postmark, placed in the mail before midnight on the date of delinquency.

SEC. 83. Section 18114.5 of the Health and Safety Code is amended to read:

18114.5. When renewal fee penalties have not accrued with respect to a manufactured home, mobilehome, or commercial coach subject to this chapter and the manufactured home, mobilehome, or commercial coach is transferred, the transferee shall have a period of 20 days from the date of the transfer to pay any registration fees which become due without payment of any penalties that would otherwise be required.

SEC. 84. Section 18115 of the Health and Safety Code is amended to read:

18115. Commencing July 1, 1981, the vehicle license fee levied pursuant to Section 10751 of the Revenue and Taxation Code on manufactured homes and mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, or commercial coaches, shall be paid to the department. The annual amount of the fee shall be a sum equal to 2 percent of the market value of the manufactured home, mobilehome, or commercial coach. The market value shall be determined by the department upon the basis of the original sales price of the manufactured home, mobilehome, or commercial coach when first sold to a consumer as a new manufactured home, mobilehome, or commercial coach. The annual amount of the fee charged to the owner of a manufactured home or mobilehome subject to a license fee which replaces a manufactured home or mobilehome destroyed, on or after January 1, 1982, as the result of a disaster declared by the Governor, and which meets the requirements of Chapter 2.6 (commencing with Section 172) of Part 1 of Division 1 of the Revenue and Taxation Code, shall be determined in accordance with Section 172.1 of the Revenue and Taxation Code. In the event any manufactured home, mobilehome, or commercial coach subject to this article is modified or added to at a cost of two hundred dollars ($200), or more, a copy of the building permit required for these modifications shall be entered in the permanent record of the manufactured home, mobilehome, or commercial coach and the department shall classify or reclassify the manufactured home, mobilehome, or commercial coach in its proper class as provided in Section 18115.5. These provisions shall not apply in the event that the modifications are necessary to enable a handicapped person to enter and use the manufactured home,

mobilehome, or commercial coach.

SEC. 85. Section 18115.5 of the Health and Safety Code is amended to read

18115.5. (a) For the purposes of this article, a classification plan is established consisting of the following classes: a class from no dollar ($0) to and including forty-nine dollars and ninety-nine cents ($49.99); a class from fifty dollars ($50) to and including one hundred ninety-nine dollars and ninety-nine cents ($199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars ($200), consisting of a number of classes as will permit classification of all manufactured homes, mobilehomes, or commercial coaches.

(b) The market value of a manufactured home, mobilehome, or commercial coach subject to this article for each registration year of its life, shall be a percentage of that sum, determined as follows:

Registration year	Percentage
First	85
Second	70
Third	55
Fourth	45
Fifth	40
Sixth	35
Seventh	30
Eighth	25
Ninth	24
10th	23
11th	22
12th	21
13th	20
14th	19
15th	18
16th	17
17th	16
18th each succeeding year	15

It is the intent of this section that the market value of any manufactured home, mobilehome, or commercial coach subject to this article shall be the same in each registration year of its life as it would be if determined pursuant to Sections 10752.1, 10753, 10753.2, 10753.3, and 10753.4 of the Revenue and Taxation Code

SEC. 86. Section 18116.5 of the Health and Safety Code is amended to read:

18116.5. Used manufactured homes and used mobilehomes subject to local property taxation are exempt from the payment of use tax upon resale or transfer as provided in Section 6379 of the Revenue and Taxation Code.

SEC. 87. Section 18117 of the Health and Safety Code is amended to read:

18117. An application for registration under this part of a manufactured home, mobilehome, or commercial coach previously registered outside of this state shall be accompanied by payment of the amount required to be paid under Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code with respect to the use of the manufactured home, mobilehome, or commercial coach by the applicant.

SEC. 88. Section 18117.5 of the Health and Safety Code is amended to read:

18117.5. The transfer fee is delinquent if not paid within 10 days of receipt by the transferee of a properly executed certificate of title for the manufactured home, mobilehome, or commercial coach.

SEC. 89. Section 18118 of the Health and Safety Code is amended to read:

18118. Whenever any application for a registration transaction is filed with the department during the 60 days immediately preceding the expiration of registration of a manufactured home, mobilehome, or commercial coach, the application shall be accompanied by the full renewal fees for the ensuing registration year in addition to any other fees then due and payable.

SEC. 90. Section 18122.5 of the Health and Safety Code is amended to read:

18122.5. It is unlawful for any person to fail or neglect properly to endorse, date, and deliver the certificate of title and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration. Except when the certificate of title is demanded in writing by a purchaser, a manufactured home, mobilehome, or commercial coach dealer licensed, as provided by this part, shall satisfy the delivery requirement of this section by submitting appropriate documents and fees to the department for transfer of registration in accordance with this part and rules and regulations promulgated thereunder.

SEC. 91. Section 18123 of the Health and Safety Code is amended to read:

18123 (a) The department shall withhold the registration or the transfer of registration of any manufactured home, mobilehome, or commercial coach sold at retail to any applicant by any person, other than a manufactured home, mobilehome, or commercial coach manufacturer or dealer holding a license and certificate issued as provided for by this part, until the applicant pays to the department the use tax measured by the sales price of the manufactured home, mobilehome, or commercial coach as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), together with penalty, if any, unless the State Board of Equalization finds that no use tax is due. If the applicant so desires, he or she may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his or her application for registration or transfer of registration, and thereafter he or she may apply through the department to the State Board of

Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule, in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. The reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section, a fraction of a dollar shall be disregarded, unless it exceeds fifty cents ($0.50), in which case it shall be treated as the next higher full dollar. Computation of any penalty shall be made from the tax after the same has been computed as provided in this section. Any tax or penalty in the amount of one dollar ($1) or less shall be one dollar ($1). Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as the requirements are applicable to the use of manufactured homes, mobilehomes, or commercial coaches to which this section relates.

SEC. 92. Section 18123.5 of the Health and Safety Code is amended to read:

18123.5. (a) A dealer who violates paragraph (1), (2), or (3) of subdivision (a) of Section 18080.5 shall pay to the department an administrative service fee of five dollars ($5) for each violation.

(b) A dealer who violates paragraph (4) of subdivision (a) of Section 18080.5, when selling a manufactured home, mobilehome, or commercial coach, shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 10 calendar days but within 20 calendar days from the date of sale; ten dollars ($10).

(2) If the application is submitted after 20 calendar days but within 30 calendar days from the date of sale; twenty dollars ($20).

(3) If the application is submitted after 30 calendar days but within 60 calendar days from the date of sale; forty dollars ($40).

(4) If the application is submitted after 60 calendar days from the date of sale; two hundred dollars ($200).

(c) Each violation of subdivision (a) of Section 18080.5 shall be, in addition to the obligation to pay the administrative service fee, a separate cause for discipline pursuant to Section 18058.

(d) Nonpayment of an administrative service fee within 10 days after written demand from the department shall be a separate cause for discipline pursuant to Section 18058.

SEC. 93. Section 18124 of the Health and Safety Code is amended to read:

18124. The department, 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, permit, or registration decal issued under this part upon expiration, revocation, cancellation, or suspension thereof or which is fictitious or which has been unlawfully or erroneously issued or affixed.

This section shall not be applicable to any insignia issued pursuant to Section 18026 or to any manufactured home or mobilehome label issued pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., 5401, et seq.).

Any document or decal seized shall be expeditiously delivered to the department with a brief written explanation of the circumstances.

SEC. 94. Section 18210 of the Health and Safety Code is amended to read:

18210. "Lot" is any area or tract of land or portion of a mobilehome park, recreational vehicle park, temporary recreational vehicle park, or tent camp designated or used for the occupancy of one manufactured home, mobilehome, recreational vehicle, camp car, or camping party

SEC. 95. Section 18210.5 of the Health and Safety Code is amended to read:

18210.5. "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width, or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chasis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification and complies with the standards established under this part. "Manufactured home" includes a mobilehome subject to the National Manufactured Housing Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.).

SEC. 96. Section 18211 of the Health and Safety Code is amended to read:

18211. "Mobilehome", for the purposes of this part, is a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units, as defined in Section 18003.3, to be used with or without a foundation system. Mobilehome does not include a recreational vehicle, commercial coach, or factory-built housing, as defined in Section 19971.

SEC. 97. Section 18212 of the Health and Safety Code is repealed.

SEC. 98. Section 18213 of the Health and Safety Code is amended to read.

18213. "Mobilehome accessory building or structure" is any awning, cabana, ramada, storage cabinet, storage building, private garage, carport, fence, windbreak or porch, or any residential

building or structure established for the use of the occupant of a manufactured home, mobilehome, or recreational vehicle on a lot.

SEC. 99. Section 18214 of the Health and Safety Code is amended to read:

18214. "Mobilehome park" is any area or tract of land where two or more mobilehome lots are rented or leased or held out for rent or lease to accommodate manufactured homes or mobilehomes used for human habitation. The rental paid for any such manufactured home or mobilehome shall be deemed to include rental for the lot it occupies.

SEC. 100. Section 18215 of the Health and Safety Code is amended to read:

18215. "Recreational vehicle park" is any area or tract of land, or a separate designated section within a mobilehome park, where two or more lots are rented or leased or held out for rent, or lease to owners or users of recreational vehicles or tents.

SEC. 101. Section 18215.5 of the Health and Safety Code is amended to read:

18215.5. "Recreational vehicle" is a motorhome, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, which meets all of the following criteria:

(a) Contains less than 320 square feet of internal living area, excluding built-in equipment including, but not limited to, wardrobe, closets, cabinets, kitchen units or fixtures, and bath or toilet rooms.

(b) Contains 400 square feet or less of gross area measured at maximum horizontal projections.

(c) Is built on a single chassis.

(d) Is either self-propelled, truck-mounted, or permanently towable on the highways without a permit.

SEC. 102. Section 18217 of the Health and Safety Code is amended to read:

18217. "Temporary recreational vehicle park" is any area or tract of land where two or more lots are rented or leased or held out for rent or lease to owners or users of recreational vehicles and which is established for one operation not to exceed 11 consecutive days, and is then removed.

SEC. 103. Section 18219 of the Health and Safety Code is repealed.

SEC. 104. Section 18220 of the Health and Safety Code is repealed.

SEC. 105. Section 18250 of the Health and Safety Code is amended to read:

18250. The Legislature finds and declares that increasing numbers of Californians live in manufactured homes and mobilehomes and that most of those living in such manufactured homes and mobilehomes reside in mobilehome parks. Because of the high cost of moving manufactured homes and mobilehomes, most

owners of manufactured homes and mobilehomes reside within mobilehome parks for substantial periods of time. Because of the relatively permanent nature of residence in such parks and the substantial investment which a manufactured home or mobilehome represents, residents of mobilehome parks are entitled to live in conditions which assure their health, safety, general welfare, and a decent living environment, and which protect the investment of their manufactured homes and mobilehomes.

SEC. 106. Section 18253 of the Health and Safety Code is amended to read:

18253. The Legislature finds and declares that the specific requirements relating to construction, maintenance, occupancy, use, and design of mobilehome parks are best developed by the Department of Housing and Community Development in accordance with the criteria established by the provisions of this part. Placing such responsibility with the department will allow for modifications of specific requirements in a rapid fashion and in a manner responsive to the needs of mobilehome park residents and owners. However, the necessity for avoiding conflicting building standards with their attendant cost and confusion is best fulfilled by approval and publication of all building standards by one state agency pursuant to the provisions of the State Building Standards Law, Part 2.5 (commencing with Section 18901) of this division.

SEC. 107. Section 18300 of the Health and Safety Code, as amended by Section 3 of Chapter 974 of the Statutes of 1981, is amended to read:

18300. (a) The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the regulations adopted pursuant to the provisions of this part following approval by the department for such assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks,

incidental camping areas, and tent camps, and the other regulations relating to mobilehome parks promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, or the other regulations adopted pursuant to the provisions of this part by a city, county, or city and county, the department shall enforce the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the director of the department

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part, as they relate to manufactured homes or mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks.

(g) The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers.

(1) From establishing, subject to the requirements of Sections 65852.3 and 65852.7 of the Government Code, certain zones for

manufactured homes, mobilehomes, or mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a manufactured home, mobilehome, or recreational vehicle outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of manufactured homes, mobilehomes, and recreational vehicles, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when such manufactured home or mobilehome is located outside a mobilehome park, recreational vehicle park or temporary recreational vehicle park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) of this division and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(h) (1) A city, including a charter city, county, or city and county, shall not require the average density in a new mobilehome park to be less than that permitted by the applicable zoning ordinance, plus any density bonus, as defined in Section 65915 of the Government Code, for other affordable housing forms.

(2) A city, including a charter city, county, or city and county, shall not require a new mobilehome park to include a clubhouse. Recreational facilities, recreational areas, accessory structures, or

improvements may be required only to the extent that such facilities or improvements are required in other types of residential developments containing a like number of residential dwelling units.

(i) 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. 108. Section 18300 of the Health and Safety Code, as added by Section 4 of Chapter 974 of the Statutes of 1981, is amended to read:

18300. (a) The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in Section 18930, the department may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the regulations adopted pursuant to the provisions of this part following approval by the department for such assumption.

(c) The department shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the other regulations relating to mobilehome parks promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, or the other regulations adopted pursuant to the provisions of this part by a city, county, or city and county, the department shall enforce the provisions of this part, the building standards published in the State Building Standards Code relating to

mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the director.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part, as they relate to manufactured homes, mobilehomes, and to manufactured home or mobilehome accessory buildings or structures located outside of mobilehome parks.

(g) The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers:

(1) From establishing, subject to the requirements of Section 65852.3 of the Government Code, certain zones for manufactured homes or mobilehomes or mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a manufactured home, mobilehome, or recreational vehicle used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, recreational vehicle park, or

temporary recreational vehicle park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a mobilehome or recreational vehicle outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and recreational vehicles, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use.

(4) From requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when such manufactured home or mobilehome is located outside a mobilehome park, recreational vehicle park, or temporary recreational vehicle park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) of this division and the regulations adopted pursuant thereto do not require the issuance of a permit therefor by the department.

(h) This section shall become operative January 1, 1988.

SEC. 109. Section 18300.1 of the Health and Safety Code is amended to read

18300.1. Any person may file an application with the governing body of any city, city and county, or county for a conditional use permit for a manufactured home, mobilehome, or mobilehome park. The governing body, or the planning commission if designated by the governing body, shall hold a public hearing on any such application. Notice of the time and place of the hearing, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given at least two weeks before the hearing and shall be published at least once in a newspaper of general circulation, published and circulated in the city, city and county, or county, as the case may be. When any hearing is held on an application for a conditional use permit for a manufactured home, mobilehome, or mobilehome park, a staff report with recommendations and the basis for such recommendations shall be included in the record of the hearing. The decision of the governing body shall be final and the reasons for the decision shall be included in the record.

SEC. 110. Section 18301 of the Health and Safety Code is amended to read:

18301. (a) The provisions of this part applicable to mobilehome parks shall apply equally to recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps except where specifically exempted by regulations adopted by the department pursuant to this part.

(b) The department shall adopt and submit building standards for

approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division and shall adopt other regulations for recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps which shall take into consideration such special conditions as location, physical environment, density of usage, type of operation, type of vehicles to be accommodated, and duration of occupancy. The department may vary the requirements for recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps according to such conditions. Such building standards or other adopted regulations shall establish requirements which are determined by the department to be reasonable and necessary for the protection of life and property.

SEC. 111. Section 18303 of the Health and Safety Code is amended to read:

18303. This part does not apply to any mobilehome park, recreational vehicle park, or camping area owned, operated, and maintained by any of the following:

(a) The federal government.

(b) The state.

(c) Any agency or political subdivision of the state.

SEC. 112. Section 18400 of the Health and Safety Code is amended to read:

18400. The department shall enforce every provision of this part, building standards published in the State Building Standards Code relating to mobilehome parks, recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps, and the other rules and regulations promulgated pursuant to the provisions of this part, except as provided in Section 18300.

The officers or agents of the enforcement agency may:

(a) Enter public or private property to determine whether there exists any mobilehome park to which this part applies.

(b) Enter and inspect all mobilehome parks, wherever situated, and inspect all accommodations, equipment, or paraphernalia used in connection therewith, including the right to examine any registers of occupants maintained therein in order to secure the enforcement of such provisions.

SEC. 113. Section 18401 of the Health and Safety Code is amended to read:

18401. The enforcement agency shall notify the manufactured home or mobilehome owner or occupant of any violations of the provisions of this part, building standards published in the State Building Standards Code relating to mobilehome parks, or of any other rules or regulations issued pursuant to this part applicable to a manufactured home or mobilehome, accessory structure, or other appurtenance owned, occupied, or under such person's control. The notification shall include a statement that any willful violation of such provisions is a misdemeanor under Section 18700.

SEC. 114. Section 18500.5 of the Health and Safety Code is

amended to read:

18500.5. Notwithstanding Section 18500, the owner of one manufactured home or mobilehome who is also the owner of the land upon which the manufactured home or mobilehome is located shall be able to rent, lease, sublease, let out, or hire out for occupancy the manufactured home or mobilehome and the land upon which the manufactured home or mobilehome is located without qualifying for or obtaining any permit or license from a state or local governmental agency required or authorized by this part.

SEC. 115. Section 18500.6 of the Health and Safety Code is amended to read:

18500.6. Notwithstanding Section 18500, the owner of a manufactured home or mobilehome who is not a mobilehome park operator and who rents or leases the land upon which the manufactured home or mobilehome is located shall be able to rent, lease, sublease, let out, or hire out for occupancy the manufactured home or mobilehome and the land upon which the manufactured home or mobilehome is located, subject to lawful covenants and conditions of the lease or rental agreement governing the underlying ground upon which the manufactured home or mobilehome is located, without qualifying for or obtaining any permit or license from a state or local governmental agency required or authorized by this part.

SEC. 116. Section 18502 of the Health and Safety Code is amended to read:

18502. Fees as applicable shall be submitted for permits:

(a) Fees for a permit to conduct any construction subject to this part as determined by the schedule of fees adopted by the department.

(b) Plan checking fees equal to one-half of the construction, mechanical and electrical permit fees, except that the minimum fee shall be ten dollars ($10).

(c) Except for a temporary recreational vehicle park, an annual operating permit fee of twenty-five dollars ($25) and an additional two dollars ($2) per lot or two dollars ($2) per camping party for the maximum number of camping parties to be accommodated at any one time in an incidental camping area.

(d) Temporary recreational vehicle park operating permit fee of twenty-five dollars ($25), with no additional fee for the lots.

(e) Change in name fee or transfer of ownership or possession fee of ten dollars ($10).

(f) Duplicate permit fee or amended permit fee of ten dollars ($10).

SEC. 117. Section 18503 of the Health and Safety Code is amended to read:

18503. (a) Except as otherwise provided in subdivision (b), the department by administrative rule and regulation shall establish a schedule of fees relating to all construction and installation permits. The fees shall apply to and be paid to the enforcement agency. Fees

established for construction and installation permits shall be reasonably consistent with the current edition of the Uniform Building Code as published by the International Conference of Building Officials, the Uniform Plumbing Code as published by the International Association of Plumbing and Mechanical Officials and the Uniform Electrical Code as published by the Pacific Coast Electrical Bureau.

(b) Fees for construction and installation permits in temporary recreational vehicle parks shall be determined by the enforcement agency for each such project, based on the cost of administration and enforcement, including the cost of determining the amount of fees to be charged.

SEC. 118. Section 18550 of the Health and Safety Code is amended to read:

18550. It is unlawful for any person to use or cause, or permit to be used for occupancy, any of the following manufactured homes or mobilehomes, wherever such manufactured homes or mobilehomes are located:

(a) Any manufactured home or mobilehome supplied with fuel, gas, water, electricity, or sewage connections, unless such connections and installations conform to regulations of the department.

(b) Any manufactured home or mobilehome which is permanently attached with underpinning or foundation to the ground, except for manufactured homes or mobilehomes which bear a department insignia or federal label, and which are installed on a foundation system, pursuant to Section 18551 or an earthquake resistant bracing system pursuant to Section 18613.5.

(c) Any manufactured home or mobilehome which does not conform to the registration requirements of the department.

(d) Any manufactured home or mobilehome in an unsafe or unsanitary condition.

(e) Any manufactured home or mobilehome which is structurally unsound and does not protect its occupants against the elements.

SEC. 119. Section 18550.5 of the Health and Safety Code is amended to read.

18550.5. (a) An owner of a manufactured home or mobilehome may remove or cause to be removed the towbar, wheels, wheel hubs, or axles from a manufactured home or mobilehome.

(b) A dealer may remove the towbar, wheels, wheel hubs, or axles from a manufactured home or mobilehome prior to sale if such dealer complies with subdivision (h) of Section 2982 of the Civil Code.

(c) A manufacturer may deliver a manufactured home or mobilehome to a dealer without the towbar, wheels, wheel hubs, or axles if such manufacturer complies with the provisions of Section 18032.

SEC. 120. Section 18551.1 of the Health and Safety Code is amended to read:

18551.1. Any mobilehome park, the construction of which is completed on or after January 1, 1982, may, subject to Section 18551, be constructed in a manner to enable manufactured homes and mobilehomes sited in such parks to be placed upon a foundation system, and manufactured homes and mobilehomes sited in such park may be placed upon foundation systems.

SEC. 121. Section 18552 of the Health and Safety Code is amended to read:

18552. The department shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of this division, and the department shall adopt other regulations for manufactured home or mobilehome accessory buildings or structures. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall provide for the construction, location, and use of manufactured home or mobilehome accessory buildings or structures to protect the health and safety of the occupants and the public, and shall be enforced by the appropriate enforcement agency.

SEC. 122. Section 18554 of the Health and Safety Code is amended to read:

18554. It is unlawful to permit any wastewater or material from any plumbing fixtures in a manufactured home or mobilehome to be deposited upon the surface of the ground. All plumbing fixtures, when in use, shall be connected to a sewage disposal system meeting the requirements of building standards published in the State Building Standards Code relating to mobilehome parks and such other requirements established by the department. Except as provided in Section 18930, the department may promulgate such rules and regulations as it determines are reasonably necessary for the protection of life and property and to carry out the purposes of this section.

SEC. 123. Section 18601 of the Health and Safety Code is amended to read.

18601. The department shall adopt regulations to insure adequate animal control within mobilehome parks.

SEC. 124. Section 18602 of the Health and Safety Code is amended to read:

18602. In every mobilehome park there shall be installed and kept burning from sunset to sunrise sufficient artificial light to adequately illuminate every building containing toilets and showers, and roadways and walkways within the mobilehome park.

SEC. 125. Section 18604 of the Health and Safety Code is amended to read:

18604. No manufactured home or mobilehome within a mobilehome park shall be rented or leased unless it bears a department insignia of approval issued pursuant to Section 18026, or a federal label issued pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C.,

Sec. 5401, et seq.).

SEC. 126. Section 18605 of the Health and Safety is amended to read:

18605. The department shall adopt regulations to govern the use and occupancy of manufactured homes, mobilehomes, and recreational vehicles. Such regulations shall establish minimum requirements to protect the health and safety of the occupants and the public, and shall also provide for the repair or abatement of any unsafe or unsanitary condition of the manufactured home, mobilehome, or recreational vehicle or of the electrical, mechanical, or plumbing installations therein.

SEC. 127. Section 18607 of the Health and Safety Code is amended to read:

18607. Every person owning or operating a mobilehome park shall keep such records as are necessary to report to the county assessor those manufactured homes or mobilehomes which are in the park on March 1 of the current year but were not in the park on March 1 of the preceding year as required by Section 5841 of the Revenue and Taxation Code, and commencing January 1, 1982, shall maintain the duplicate registration cards required by Section 18084 and make them available to the county assessor upon request.

SEC. 128. Section 18610 of the Health and Safety Code is amended to read:

18610. Except as provided in Section 18930, the department shall adopt regulations to govern the construction, use, occupancy, and maintenance of mobilehome parks and lots within such parks. The department shall adopt and submit building standards for approval pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the department shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks. The building standards published in the State Building Standards Code relating to mobilehome parks and the other regulations adopted by the department shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 129. Section 18612 of the Health and Safety Code is amended to read:

18612. Except as provided in Section 18930, the department shall adopt regulations to govern mobilehome lot access and driveways within mobilehome parks. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall establish standards or requirements which

protect the health, safety, and general welfare of the residents of mobilehome parks and shall require proper maintenance of lot access and driveways. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 130. Section 18613 of the Health and Safety Code is amended to read:

18613. A permit shall be obtained from the enforcement agency each time a manufactured home or 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 manufactured home or mobilehome shall obtain the permit, except when the owner of the manufactured home or mobilehome proposes to perform the installation. When a contractor applies for a permit to install a manufactured home or mobilehome, he or she shall display a valid contractor's license. The contractor shall complete the installation of the manufactured home or 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 department within the time limitations which shall be established by regulations of the department. The time limitations shall allow contractors a reasonable amount of time within which to complete manufactured home or mobilehome installations. If inspection of the manufactured home or mobilehome installation by the enforcement agency determines that the manufactured home or mobilehome cannot be approved for occupancy due to defective material, systems, workmanship, or equipment of the manufactured home or mobilehome, the contractor shall be allowed a reasonable amount of time, as determined by regulations of the department, to complete the installation after the defects in the manufactured home or mobilehome have been corrected. The enforcement agency shall immediately notify the department whenever any manufactured home or mobilehome cannot be approved for occupancy due to defects of the manufactured home or mobilehome. The report of notification shall indicate health and safety defects and, in the case of new manufactured homes or 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 manufactured home or mobilehome fails the installation inspection because of conditions which do not endanger the health or safety of the occupant, the owner may occupy the manufactured home or 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 manufactured home or mobilehome shall not be occupied.

Except as provided in Section 18930, the department shall adopt regulations for the installations and 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 department 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 manufactured homes or mobilehomes and mobilehome parks and the other regulations adopted by the department pursuant to this section shall establish such requirements as the department 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 department shall consider reassembly of the manufactured home or mobilehome, stabilizing devices and load-bearing supports, and utility connections and connectors.

The department 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 manufactured homes or 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. 131. Section 18613.1 of the Health and Safety Code is amended to read:

18613.1. The requirements for any installation of a manufactured home or mobilehome shall not exceed the requirements set forth in Section 18613.

SEC. 132. Section 18613.2 of the Health and Safety Code is amended to read:

18613.2. When the enforcement agency issues an installation permit for a new manufactured home or mobilehome, beginning on July 1, 1980, a copy of such permit shall be delivered to the county or city assessor having jurisdiction where the manufactured home or mobilehome is to be sited.

SEC. 133. Section 18613.5 of the Health and Safety Code is amended to read:

18613.5. The Department of Housing and Community Development, with the review and advice of the Seismic Safety Commission, shall adopt such rules and regulations as are necessary to ensure that purchasers of all manufactured homes and mobilehomes installed for human occupancy pursuant to Section 18613 are offered earthquake resistant bracing systems which meet generally accepted seismic safety standards for the reduction of damage and for the protection of the health and safety of the occupants. Such rules and regulations also shall include provisions for establishing a process and a fee schedule for the design review and certification by the department.

To the extent practical, the department shall be responsible for notifying owners of existing licensed manufactured homes and mobilehomes that a certification process has been established so that when considering purchase of a bracing system the owners can determine if the product or system is certified by the department.

The fees established by the department shall be sufficient to pay for the development of the design criteria and standards and the costs for the design review and certification of the products or systems.

SEC. 134. Section 18614 of the Health and Safety Code is amended to read:

18614. If the installation of a manufactured home or mobilehome by a contractor has failed the inspection of the enforcement agency and the contractor has failed to perform corrections to remedy the reasons for the failure within the time permitted by regulations of the department adopted pursuant to Section 18613, the enforcement agency shall promptly notify the registrar of contractors of such fact and the name of the contractor.

Upon such notification, the registrar shall investigate the actions of the contractor. Failure by the contractor to comply with the provisions of Section 18613 and the building standards referenced therein and the regulations adopted pursuant thereto may constitute cause for disciplinary action.

SEC. 135. Section 18620 of the Health and Safety Code is amended to read:

18620 Except as provided in Section 18930, the department shall promulgate such rules and regulations regarding the construction of buildings in mobilehome parks as the department shall determine are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to the construction of all permanent buildings in a mobilehome park,

except in a mobilehome park in a city, county, or city and county which has adopted and is enforcing a building code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency

SEC. 136. Section 18630 of the Health and Safety Code is amended to read:

18630. Except as provided in Section 18930, the department shall promulgate such rules and regulations regarding plumbing in mobilehome parks as the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all plumbing in mobilehome parks, except in permanent buildings within a mobilehome park in a city, county, or city and county which has adopted and is enforcing a plumbing code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 137. Section 18640 of the Health and Safety Code is amended to read:

18640. Except as provided in Section 18930, the department shall adopt regulations for toilets, shower, and laundry facilities in mobilehome parks The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other regulations adopted by the department shall establish standards and requirements which protect the health, safety, and general welfare of the residents of mobilehome parks, and shall require proper maintenance of such facilities The building standards published in the State Building Standards Code and the other regulations adopted by the department shall provide equivalent or greater protection to the residents of mobilehome parks than the statutes and regulations in effect on December 31, 1977.

SEC. 138 Section 18670 of the Health and Safety Code is amended to read:

18670 Except as provided in Section 18930, the department shall promulgate such rules and regulations regarding electrical wiring, fixtures, and equipment installed in mobilehome parks as the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The

department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all electrical wiring, fixtures, and equipment installed in a mobilehome park, except in permanent buildings within a mobilehome park in a city, county, or city and county which has adopted and is enforcing an electrical code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 139. Section 18690 of the Health and Safety Code is amended to read:

18690. Except as provided in Section 18930, the department shall promulgate such rules and regulations regarding fuel gas equipment and installations in mobilehome parks as the department determines are reasonably necessary for the protection of life and property and to carry out the purposes of this part. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section. The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable to all fuel gas equipment and installations in a mobilehome park, except in permanent buildings within a mobilehome park in a city, county, or city and county which has adopted and is enforcing a gas code imposing restrictions equal to or greater than the restrictions imposed by such building standards published in the State Building Standards Code and the other rules and regulations adopted by the department and which city, county, or city and county is the enforcement agency.

SEC. 140. Section 18691 of the Health and Safety Code is amended to read:

18691. Except as provided in Section 18930, the department shall adopt rules and regulations which it determines are reasonably consistent with generally recognized fire protection standards, governing conditions relating to the prevention of fire or for the protection of life and property against fire in mobilehome parks. The department shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of this division for the purposes described in this section.

The building standards published in the State Building Standards Code and the other rules and regulations adopted by the department shall be applicable in all mobilehome parks, except in a mobilehome park within a city, county, or city and county which has adopted and is enforcing a fire prevention code imposing restrictions equal to or greater than the restrictions imposed by such building standards

published in the State Building Standards Code and the other state regulations adopted by the department and which city, county, or city and county is the enforcement agency.

Notwithstanding the provisions of this section, the rules and regulations adopted by the department relating to the installation of water supply and fire hydrant systems shall not apply within mobilehome parks constructed, or approved for construction, prior to January 1, 1966.

SEC. 141. 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. 142. Notwithstanding Section 2230 of the Revenue and Taxation Code, no reimbursement will be made for revenue losses caused by the use tax exemption contained in Section 18116.5 of the Health and Safety Code, as amended by this act.

CHAPTER 1077

An act to amend Sections 53850 and 53853 of, and to add Section 53891.1 to, the Government Code, relating to local agencies.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 53850 of the Government Code is amended to read:

53850. As used in this article, "local agency" means county, city and county, city, school district of any type, community college district, county board of education, or any other municipal or public corporation or district.

SEC. 2. Section 53853 of the Government Code is amended to read:

53853. The note or notes shall be issued pursuant to a resolution authorizing the issuance thereof adopted by the legislative body of the local agency, except that the note or notes of a school or community college district shall be issued in the name of the school or community college district by the board of supervisors of the county, the county superintendent of which has jurisdiction over the school or community college district, as soon as possible following receipt of a resolution of the governing board of the school or community college district requesting the borrowing and the note or

notes of a county board of education shall be issued in the name of the county board of education by the board of supervisors of the county as soon as possible following receipt of a resolution of the county board of education requesting the borrowing Notes authorized to be issued may be issued from time to time as provided in the resolution. The resolution shall set forth the form and the manner of execution of the note or notes.

SEC. 3. Section 53891.1 is added to the Government Code, to read:

53891.1. In lieu of the report required in Section 53891, hospital districts may submit to the Controller copies of any annual financial reports which the hospitals are required to submit to the California Health Facilities Commission or any portion thereof acceptable to the Controller, together with any supplemental report containing additional information as required by the Controller

SEC. 4. It is the intent of the Legislature that the temporary borrowing by any county board of education pursuant to this act be limited to short-term borrowing for cash-flow purposes.

CHAPTER 1078

An act to add Chapter 2.4 (commencing with Section 999i) to Title 6 of Part 2 of the Penal Code, relating to crimes.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

The people of the State of California do enact as follows

SECTION 1. Chapter 2.4 (commencing with Section 999i) is added to Title 6 of Part 2 of the Penal Code, to read:

CHAPTER 2 4. REPEAT SEXUAL OFFENDERS

999i. The Legislature hereby finds that repeat sexual offenders present a clear and present danger to the mental and physical well-being of the citizens of the State of California, especially of its children. The Legislature further finds that the concept of vertical prosecution, in which one deputy district attorney is assigned to a case from its filing to its completion, is a proven way of demonstrably increasing the likelihood of convicting repeat sex offenders and ensuring appropriate sentences for such offenders. In enacting this chapter, the Legislature intends to support increased efforts by district attorneys' offices to prosecute repeat sexual offenders through organizational and operational techniques that have already proven their effectiveness in selected counties in this and other states, as demonstrated by the California Career Criminal Prosecution Program and the California Gang Violence Suppression

Program, as well as sexual assault prosecution units in several counties.

999j. (a) There is hereby established in the Office of Criminal Justice Planning a program of financial and technical assistance for district attorneys' offices, designated the Repeat Sexual Offender Prosecution Program. All funds appropriated to the Office of Criminal Justice Planning for the purposes of this chapter shall be administered and disbursed by the executive director of such office, and shall to the greatest extent feasible, be coordinated or consolidated with any federal or local funds that may be made available for these purposes.

The Office of Criminal Justice Planning shall establish guidelines for the provision of grant awards to proposed and existing programs prior to the allocation of funds under this chapter. These guidelines shall contain the criteria for the selection of agencies to receive funding, as developed in consultation with an advisory group to be known as the Repeat Sexual Offender Prosecution Program Steering Committee The membership of the Steering Committee shall be designated by the Executive Director of the Office of Criminal Justice Planning.

A draft of the guidelines shall be developed and submitted to the Chairpersons of the Assembly Criminal Law and Public Safety Committee and the Senate Judiciary Committee within 60 days of the effective date of this chapter and issued within 90 days of the same effective date. These guidelines shall set forth the terms and conditions upon which the Office of Criminal Justice Planning is prepared to offer grants pursuant to statutory authority. The guidelines shall not constitute rules, regulations, orders, or standards of general application

(b) The executive director is authorized to allocate and award funds to counties in which repeat sexual offender prosecution units are established or are proposed to be established in substantial compliance with the policies and criteria set forth below in Sections 999k, 999*l*, and 999m.

(c) Such allocation and award of funds shall be made upon application executed by the county's district attorney and approved by its board of supervisors. Funds disbursed under this chapter shall not supplant local funds that would, in the absence of the California Repeat Sexual Offender prosecution program, be made available to support the prosecution of repeat sexual offender felony cases. Local grant awards made under this program shall not be subject to review as specified in Section 14780 of the Government Code.

(d) Annually, commencing January 1985, or after one year of program operation, the executive director shall, in cooperation with local district attorneys whose offices are selected for funding, prepare a report to the Legislature describing the operation and results of the statewide program.

999k. Repeat sexual offender prosecution units receiving funds under this chapter shall concentrate enhanced prosecution efforts

and resources upon individuals identified under selection criteria set forth in Section 999*l*. Enhanced prosecution efforts and resources shall include, but not be limited to:

(a) Vertical prosecutorial representation, whereby the prosecutor who makes the initial filing or appearance in a repeat sexual offender case will perform all subsequent court appearances on that particular case through its conclusion, including the sentencing phase.

(b) The assignment of highly qualified investigators and prosecutors to repeat sexual offender cases. "Highly qualified" for the purposes of this chapter shall be defined as: (1) individuals with one year of experience in the investigation and prosecution of felonies or specifically the felonies listed in subdivision (a) of Section 999*l*; or (2) individuals whom the district attorney has selected to receive training as set forth in Section 13836; or (3) individuals who have attended a program providing equivalent training as approved by the Office of Criminal Justice Planning.

(c) A significant reduction of caseloads for investigators and prosecutors assigned to repeat sexual offender cases.

(d) Coordination with local rape victim counseling centers, child abuse services programs, and victim witness assistance programs. Such coordination shall include, but not be limited to: referrals of individuals to receive client services; participation in local training programs; membership and participation in local task forces established to improve communication between criminal justice system agencies and community service agencies; and cooperating with individuals serving as liaison representatives of local rape victim counseling centers and victim witness assistance programs.

999*l*. (a) An individual shall be the subject of a repeat sexual offender prosecution effort who is under arrest for the commission or attempted commission of one or more of the following offenses: assault with intent to commit rape, sodomy, oral copulation or any violation of Section 264.1, Section 288, or Section 289; rape, in violation of Section 261, sexual battery, in violation of Section 243.4; sodomy, in violation of Section 286; lewd acts on a child under 14, in violation of Section 288; oral copulation, in violation of Section 288a; penetration of genital or anal openings by a foreign object, in violation of Section 289; and (1) who is being prosecuted for offenses involving two or more separate victims, or (2) who is being prosecuted for the commission or attempted commission of three or more separate offenses not arising out of the same transaction involving one or more of the above-listed offenses, or (3) who has suffered at least one conviction during the preceding 10 years for any of the above-listed offenses. For purposes of this chapter, the 10-year periods specified in this section shall be exclusive of any time which the arrested person has served in state prison or in a state hospital pursuant to a commitment as a mentally disordered sex offender.

(b) In applying the repeat sexual offender selection criteria set forth above: (1) a district attorney may elect to limit repeat sexual offender prosecution efforts to persons arrested for any one or more

of the offenses listed in subdivision (a) if crime statistics demonstrate that the incidence of such one or more offenses presents a particularly serious problem in the county; (2) a district attorney shall not reject cases for filing exclusively on the basis that there is a family or personal relationship between the victim and the alleged offender.

(c) In exercising the prosecutorial discretion granted by Section 999n, the district attorney shall consider the following. (1) the character, the background, and prior criminal background of the defendant, and (2) the number and seriousness of the offenses currently charged against the defendant.

999m. Each district attorney's office establishing a repeat sexual offender prosecution unit and receiving state support under this chapter shall adopt and pursue the following policies for repeat sexual offender cases:

(a) All reasonable prosecutorial efforts will be made to resist the pretrial release of a charged defendant meeting repeat sexual offender selection criteria.

(b) All reasonable prosecutorial efforts will be made to persuade the court to impose the most severe authorized sentence upon a person convicted after prosecution as a repeat sexual offender. In the prosecution of an intrafamily sexual abuse case, discretion may be exercised as to the type and nature of sentence recommended to the court.

(c) All reasonable prosecutorial efforts will be made to reduce the time between arrest and disposition of charge against an individual meeting repeat sexual offender criteria.

999n. (a) The selection criteria set forth in Section 999*l* shall be adhered to for each repeat sexual offender case unless, in the reasonable exercise of prosecutor's discretion, extraordinary circumstances require departure from such policies in order to promote the general purposes and intent of this chapter.

(b) Each district attorney's office establishing a repeat sexual offender prosecution unit and receiving state support under this chapter shall submit the following information, on a quarterly basis, to the Office of Criminal Justice Planning:

(1) The number of sexual assault cases referred to the district attorney's office for possible filing.

(2) The number of sexual assault cases filed for felony prosecution.

(3) The number of sexual assault cases taken to trial.

(4) The percentage of sexual assault cases tried which resulted in conviction.

999o. The characterization of a defendant as a "repeat sexual offender" as defined by this chapter shall not be communicated to the trier of fact.

999p. The Office of Criminal Justice Planning is encouraged to utilize any federal funds which may become available in order to implement the provisions of this chapter.

CHAPTER 1079

An act to amend Sections 1245.230 and 1250.125 of the Code of Civil Procedure, and to amend Section 7267.2 of the Government Code, relating to eminent domain.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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 either the offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record, or the offer has not been made because the owner cannot be located with reasonable diligence.

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 1250.125 of the Code of Civil Procedure is amended to read:

1250.125. (a) Where summons is served by publication, the publication may name only the defendants to be served thereby and

describe only the property in which the defendants to be served thereby have or claim interests.

(b) Judgment based on failure to appear and answer following service under this section shall be conclusive against the defendants named in respect only to property described in the publication.

(c) Notwithstanding subdivision (b), a defendant who did not receive the offer required by Section 7267.2 of the Government Code because the owner could not be located with reasonable diligence, who was served by publication, and who failed to appear, may contest the amount of compensation within one year of the judgment and for good cause shown, whereupon that issue shall be litigated according to the provisions of this title.

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, unless the owner cannot be located with reasonable diligence. 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.

CHAPTER 1080

An act to amend Section 11342 of, and to add and repeal Sections 11346.9 and 11346.95 to, the Government Code, relating to state government, and making an appropriation therefor.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. 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 legal rulings of counsel issued by the Franchise Tax Board or State Board of Equalization, or 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. 1.5. 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.

For purposes of this chapter, any public agency, other than a city, a county, or a city and county, school district, special district, authority, or other political subdivision of or within the state, shall be considered a state agency when implementing a regulation imposed upon it by a state agency, board or commission.

(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 legal rulings of counsel issued by the Franchise Tax Board or State Board of Equalization, or 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. 1.6 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 legal rulings of counsel issued by the Franchise Tax Board or the State Board of Equalization, or 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 4.5 million megawatt hours annually.

(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 million megawatt hours annually.

(H) All petroleum and natural gas producers, refiners and pipelines.

SEC. 1.7. 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.

For purposes of this chapter, any public agency, other than a city, a county, or a city and county, school district, special district, authority, or other political subdivision of or within the state, shall be considered a state agency when implementing a regulation imposed upon it by a state agency, board or commission.

(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 legal rulings of counsel issued by the Franchise Tax Board or the State Board of Equalization, or 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 4.5 million megawatt hours annually.

(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 million megawatt hours annually.

(H) All petroleum and natural gas producers, refiners and pipelines.

SEC. 2. Section 11346.9 is added to the Government Code, to read:

11346.9. (a) The Legislature finds and declares that economic factors should be given careful consideration by agencies proposing regulatory actions. The Legislature further finds and declares that the state's duty to protect the peace, health, safety, and general welfare of the people of California may take precedence over economic considerations.

(b) If any action is proposed to adopt or amend a regulation, subject to the provisions of this chapter, as set forth in subdivision (c), the agency shall publish a notice of that fact pursuant to Sections 11346.4 and 11346.5, and shall prepare a clear and concise economic impact statement which shall be included in the statement of reasons required by Section 11346.7 and which shall include, but shall not be limited to, all of the following:

(1) An estimate of the compliance cost of the regulatory action to all persons and business entities directly affected.

(2) An estimate of the impact of the regulatory action on the level and distribution of costs and prices for large and small businesses.

(3) An estimate of the impact on the level of employment in the state.

(4) A description of the major alternatives to the regulatory action considered by the agency, and a statement of the reasons why one alternative was selected over the others.

(5) A statement of the data and methods used in making each of the above estimates.

Methodology used in making estimates shall be based on guidelines developed by the interagency council pursuant to Section 11346.95.

Any emergency regulation adopted by an agency pursuant to the provisions of Section 11346.1, shall be exempt from the provisions of this subdivision until the regulation is set for hearing by the agency pursuant to the provisions of subdivision (e) of Section 11346.1. At that time, an economic impact statement, if applicable, shall be included in the statement of reasons required to be published

pursuant to Section 11346.7. The office shall determine which health and safety emergency regulations shall be exempt from the filing of an economic impact statement, if those regulations are necessary for the preservation of the immediate health and safety of the public.

This subdivision does not apply to any action to adopt or amend any intergovernmental regulation which does not affect any business or corporation or to any action by the governing body of any state retirement system to adopt or amend a regulation.

(c) An economic impact statement shall be prepared pursuant to subdivision (b) if the proposed regulation set has been selected pursuant to Section 11346.95.

(d) The statement required by subdivision (b) shall be prepared prior to the time the notice referred to in Section 11346.5 has been published. The statement shall be updated prior to the final adoption of the regulation by the agency.

The final statement shall include a summary of the primary considerations raised by persons outside the agency in opposition to the economic impact statement, together with a brief explanation of the reasons for rejecting those considerations.

(e) The statement required by subdivision (b) shall be transmitted to the office at the same time that the adopted or amended regulation is sent and shall be utilized by the office in its review of the regulation pursuant to Section 11349.1.

(f) 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.

If any provision of this section is in conflict with Section 11346.5, 11346.7, or 11346.13, the provision of this section shall prevail.

This section shall become operative on July 1, 1984, and shall remain in effect only until December 31, 1985, and as of that date is repealed.

SEC. 3. Section 11346.95 is added to the Government Code, to read:

11346.95. An interagency council is hereby created composed of representatives from the Department of Finance, the Department of Economic and Business Development, and such other members as the Governor may appoint, for all of the following purposes:

(a) Developing the methodological guidelines required by paragraph (5) of subdivision (b) of Section 11346.9.

(b) Developing the selection process and identifying and selecting not more than six sets or filings, as defined, of proposed regulations from several state agencies for the required economic impact statement, focusing on those agencies which promulgate the majority of regulations with a significant impact on business, including, but not limited to, the following agencies:

(1) California Community Colleges.
(2) Department of Housing and Community Development.
(3) Department of Fair Employment and Housing.
(4) Department of Food and Agriculture.
(5) Department of Forestry.
(6) Department of Industrial Relations.
(7) Resources Agency.
(8) State Department of Health Services.
(9) State Department of Social Services
(10) Office of Statewide Health Planning.

"Sets or filings" as used in this section includes one regulation or a group of related regulations which are filed as a package with the Office of Administrative Law.

(c) The council shall work with the selected agencies to guide their analyses and ensure the accurate accounting of state resources utilized.

(d) The council shall meet at least once a month

The interagency council and the Department of Economic and Business Development shall evaluate the effectiveness of, and make recommendations concerning, Section 11346.9, with comments by the Legislative Analyst, by December 31, 1985. The Department of Economic and Business Development shall be responsible for the submission of the interagency council report to the Legislature.

This section shall remain in effect only until December 31, 1985, and as of that date is repealed, unless a later enacted statute which is chaptered before December 31, 1985, deletes or extends that date.

SEC 4. The sum of eighteen thousand dollars ($18,000) is hereby appropriated from the General Fund to the Department of Economic and Business Development for the purpose of hiring one research analyst for the period from January 1, 1984, to June 30, 1984, inclusive, for the development of the methodological guidelines to be used in accordance with the purpose of this act.

SEC. 5. 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 the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 6. (a) Section 1.5 of this bill incorporates amendments to Section 11342 of the Government Code proposed by both this bill and SB 980. It shall only become operative if (1) both bills are enacted and become effective January 1, 1984, (2) each bill amends Section 11342 of the Government Code, and (3) AB 990 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after

SB 980, in which case Sections 1, 1.6, and 1.7 of this bill shall not become operative.

(b) Section 1.6 of this bill incorporates amendments to Section 11342 of the Government Code proposed by both this bill and AB 990. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, (2) each bill amends Section 11342 of the Government Code, (3) SB 980 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 990, in which case Section 11342 of the Government Code, as amended by AB 990, shall remain operative only until the operative date of this bill, at which time Section 1.6 of this bill shall become operative, and Sections 1, 1.5, and 1.7 of this bill shall not become operative.

(c) Section 1.7 of this bill incorporates amendments to Section 11342 of the Government Code proposed by this bill, SB 980, and AB 990. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1984, (2) all three bills amend Section 11342 of the Government Code, and (3) this bill is enacted after SB 980 and AB 990, in which case Section 11342 of the Government Code, as amended by AB 990, shall remain operative only until the operative date of this bill and SB 980 at which time Section 1.7 of this bill shall become operative, and Sections 1, 1.5 and 1.6 of this bill shall not become operative.

CHAPTER 1081

An act to amend Sections 2475 and 2499.5 of the Business and Professions Code, to amend Sections 43.7 and 43.8 of the Civil Code, and to amend Section 1157 of the Evidence Code, relating to health care, and making an appropriation therefor.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 2475 of the Business and Professions Code is amended to read:

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the board. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine, doctor of podiatry, or doctor of surgical chiropody has been conferred, who is issued a limited license for this purpose by the board upon recommendation of the

committee, and who is enrolled in a postgraduate training program approved by the committee, may engage in the practice of podiatric medicine whenever and wherever required as a part of such program under the following conditions:

(a) A graduate in an approved internship, residency, or fellowship program may engage in the practice of medicine for a period not to exceed two years wherever and whenever required as a part of the training program, and may receive compensation for such practice. If such a graduate shall fail to receive a license to practice podiatric medicine under this chapter within two years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

(b) Podiatric hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident podiatrists with another approved college or school of podiatric medicine not located in this state, or such hospitals may appoint a graduate of an approved school as such a resident for purposes of postgraduate training. Such instructors and residents may practice and be compensated as provided in subdivision (a), but such practice and compensation shall be for a period not to exceed one year.

(c) A graduate in an approved preceptorship program may engage in the practice of podiatric medicine in a general acute care facility or otherwise under the supervision of an approved preceptor, where required as part of the training program, and may receive compensation as provided by subdivision (a). That practice shall be for a period not to exceed two years as provided by subdivision (a).

SEC. 1.2. Section 2499.5 of the Business and Professions Code is amended 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).

(i) There shall be a fee of twenty-five dollars ($25) for the issuance of a limited license under Section 2475

SEC. 1.5. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional

staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she or it acts, and acts in reasonable belief that the action taken by him, her or it is warranted by the facts known to him, her or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible licentiates in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon or podiatrist who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons or podiatrists for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon or podiatrist acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established

in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 1.6. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical speciality society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering

organizations having as members at least a majority of the eligible licentiates in the geographic area served by the particular society.

"Medical speciality society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical speciality in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon or podiatrist who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons or podiatrists for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon or podiatrist acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 1.7. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no

cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon or podiatrist who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons or podiatrists for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon or podiatrist acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 1.8. Section 43.7 of the Civil Code is amended to read:

43.7. (a) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any member of a duly appointed mental health professional quality assurance committee that is established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to review and evaluate the adequacy, appropriateness, or effectiveness of the care and treatment planned for, or provided to, mental health patients in order to improve quality of care by mental health professionals if such committee member acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain facts.

(b) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any professional society, any member of a duly appointed committee of a medical specialty society, or any member of a duly appointed committee of a state or local professional society, or duly appointed member of a committee of a professional staff of a licensed hospital (provided the professional staff operates pursuant to written bylaws that have been approved by the governing board of the hospital), for any act or proceeding undertaken or performed within the scope of the functions of any such committee which is formed to maintain the professional standards of the society established by its bylaws, or any member of any peer review committee whose purpose is to review the quality of medical, dental, dietetic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists which committee is composed chiefly of physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists for any act or proceeding undertaken or performed in reviewing the quality of medical, dental, dietetic, or veterinary services rendered by physicians and surgeons, dentists, dental hygienists, podiatrists, registered dietitians, veterinarians, or psychologists or any member of the governing board of a hospital in reviewing the quality of medical services rendered by members of the staff if such professional society, committee, or board member

acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he, she, or it acts, and acts in reasonable belief that the action taken by him, her, or it is warranted by the facts known to him, her, or it after such reasonable effort to obtain facts. "Professional society" includes legal, medical, psychological, dental, dental hygiene, dietetic, accounting, optometric, podiatric, pharmaceutic, chiropractic, physical therapist, veterinary, and engineering organizations having as members at least a majority of the eligible persons or licentiates in the geographic area served by the particular society.

"Medical speciality society" means an organization having as members at least 25 percent of the eligible physicians within a given professionally recognized medical specialty in the geographic area served by the particular society.

(c) The provisions of this section do not affect the official immunity of an officer or employee of a public corporation.

(d) There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any physician and surgeon or podiatrist who is a member of an underwriting committee of an interindemnity or reciprocal or interinsurance exchange or mutual company for any act or proceeding undertaken or performed in evaluating physicians and surgeons or podiatrists for the writing of professional liability insurance, or any act or proceeding undertaken or performed in evaluating physicians and surgeons for the writing of an interindemnity, reciprocal, or interinsurance contract as specified in Section 1280.7 of the Insurance Code, if such evaluating physician or surgeon or podiatrist acts without malice, has made a reasonable effort to obtain the facts of the matter as to which he or she acts, and acts in reasonable belief that the action taken by him or her is warranted by the facts known to him or her after such reasonable effort to obtain such facts.

(e) This section shall not be construed to confer immunity from liability on any quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital. In any case in which, but for the enactment of the preceding provisions of this section, a cause of action would arise against a quality assurance committee established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code or hospital, such cause of action shall exist as if the preceding provisions of this section had not been enacted.

SEC. 2. Section 43.8 of the Civil Code is amended to read:

43.8. In addition to the privilege afforded by Section 47, there shall be no monetary liability on the part of, and no cause of action for damages shall arise against any person on account of the communication of information in the possession of such person to any hospital, hospital medical staff, veterinary hospital staff professional society, medical, dental, podiatric school, or veterinary school, professional licensing board or division, committee or panel of such licensing board, peer review committee, quality assurance

committees established in compliance with Sections 4070 and 5624 of the Welfare and Institutions Code, or underwriting committee described in Section 43.7 when such communication is intended to aid in the evaluation of the qualifications, fitness, character, or insurability of a practitioner of the healing or veterinary arts and does not represent as true any matter not reasonably believed to be true. The immunities afforded by this section and by Section 43.7 shall not affect the availability of any absolute privilege which may be afforded by Section 47.

SEC. 2.5. Section 1157 of the Evidence Code is amended to read:

1157. Neither the proceedings nor the records of organized committees of medical, medical-dental, podiatric, registered dietitian, or veterinary staffs in hospitals having the responsibility of evaluation and improvement of the quality of care rendered in the hospital or medical or dental review or dental hygienist review or chiropractive review or podiatric review or registered dietitian review or veterinary review committees of local medical, dental, dental hygienist, podiatric, dietetic, veterinary, or chiropractic societies shall be subject to discovery. Except as hereinafter provided, no person in attendance at a meeting of any such committee shall be required to testify as to what transpired thereat. The prohibition relating to discovery or testimony shall not apply to the statements made by any person in attendance at such a meeting who is a party to an action or proceeding the subject matter of which was reviewed at such meeting, or to any person requesting hospital staff privileges, or in any action against an insurance carrier alleging bad faith by the carrier in refusing to accept a settlement offer within the policy limits.

The prohibitions contained in this section shall not apply to medical, dental, dental hygienist, podiatric, dietetic, veterinary or chiropractic society committees that exceed 10 percent of the membership of the society, nor to any such committee if any person serves upon the committee when his or her own conduct or practice is being reviewed.

The amendments made to this section at the 1983 portion of the 1983–84 Regular Session of the Legislature shall not exclude the discovery or use of relevant evidence in a criminal action.

SEC. 3. (a) Section 1.6 of this bill incorporates amendments to Section 43.7 of the Civil Code proposed by both this bill and Assembly Bill 1516. It shall only become operative if (1) both bills are enacted and become effective January 1, 1984, (2) each bill amends Section 43.7 of the Civil Code, and (3) Senate Bill 396 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Assembly Bill 1516, in which case Sections 1.5, 1.7, and 1.8 of this bill shall not become operative.

(b) Section 1.7 of this bill incorporates amendments to Section 43.7 of the Civil Code proposed by both this bill and Senate Bill 396. It shall only become operative if (1) both bills are enacted and become effective January 1, 1984, (2) each bill amends Section 43.7

of the Civil Code, (3) Assembly Bill 1516 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after Senate Bill 396 in which case Sections 1.5, 1.6, and 1.8 of this bill shall not become operative.

(c) Section 1.8 of this bill incorporates amendments to Section 43.7 of the Civil Code proposed by this bill, Assembly Bill 1516, and Senate Bill 396. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1984, (2) all three bills amend Section 43.7 of the Civil Code, and (3) this bill is enacted after Assembly Bill 1516 and Senate Bill 396, in which case Sections 1.5, 1.6, and 1.7 of this bill shall not become operative.

CHAPTER 1082

An act to add Section 11167.5 to the Penal Code, to add Article 6 (commencing with Section 18500) to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, and to amend Section 18969 of the Welfare and Institutions Code, relating to children, and making an appropriation therefor.

[Approved by Governor September 26, 1983. Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 11167.5 is added to the Penal Code, to read:

11167.5. (a) The reports required by Section 11166 shall be confidential and may be disclosed only as provided in subdivision (b). Any violation of the confidentiality provided by this article shall be a misdemeanor punishable by up to six months in jail or by a fine of five hundred dollars ($500) or by both.

(b) Reports of suspected child abuse and information contained therein may be disclosed only to the following:

(1) Persons or agencies to whom disclosure of the identity of the reporting party is permitted under Section 11167.

(2) Persons or agencies to whom disclosure of information is permitted under subdivision (b) of Section 11170.

(3) Persons or agencies with whom investigations of child abuse are coordinated under the regulations promulgated under Section 11174.

(4) Multidisciplinary personnel teams as defined in subdivision (d) of Section 18951 of the Welfare and Institutions Code.

(c) Nothing in this section shall be interpreted to require the Department of Justice to disclose information contained in records maintained under Section 11169 or under the regulations promulgated pursuant to Section 11174, except as otherwise provided in this article.

(d) This section shall not be interpreted to allow disclosure of any

reports or records relevant to the reports of child abuse if the disclosure would be prohibited by any other provisions of state or federal law applicable to the reports or records relevant to the reports of child abuse.

SEC. 2. Article 6 (commencing with Section 18500) is added to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 6. Designations to the State Children's Trust Fund

18500. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the State Children's Trust Fund.

(b) The contribution shall be in full dollar amounts and may be made individually by each signatory on the joint return.

(c) A designation under subdivision (a) shall be made for any taxable year on the initial return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the tax liability, if any, shown thereupon, the return shall be treated as though no designation had been made. In the event that no designee is specified, the contribution shall, after reimbursement of the direct actual costs of the Franchise Tax Board for the collection and administration of funds under this article, be transferred to the General Fund. The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(d) If a taxpayer designates a contribution to more than one account, and the amount available is insufficient to satisfy the total amount designated, the contribution shall be allocated among the designees on a pro rata basis.

(e) The Franchise Tax Board shall revise the form of the return to include a space labeled the "State Children's Trust Fund" to allow for the designation permitted under subdivision (a).

(f) No deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 for any contribution made pursuant to subdivision (a).

18501. (a) The Franchise Tax Board shall determine annually the total amount designated pursuant to this article and notify the Controller of that amount.

(b) The Controller shall transfer that amount, less the direct, actual costs of the Franchise Tax Board for the collection and administration of funds under this article, to the State Children's Trust Fund. The Controller shall transfer the amount of the board's costs to the board. Notwithstanding Section 13340 of the Government Code, money transferred to the Franchise Tax Board pursuant to this section is hereby continuously appropriated, without regard to fiscal years, to reimburse the board for its costs incurred pursuant to this

article.

18502. It is the intent of the Legislature that this article create an additional source of funding for a specified purpose. The funds generated by this article shall not be used in place of funds from other sources which are available for appropriation to the State Children's Trust Fund.

18503. This article applies to taxable years ending on or after December 31, 1983.

18504. This article shall become inoperative on January 1, 1987, unless the Franchise Tax Board certifies to the Secretary of State, on or before January 1, 1987, that the board has been able to retain, in every year up to that date, an amount equal to its direct, actual cost for the collection and administration of funds under the article. If the Franchise Tax Board certifies this fact to the Secretary of State, this article shall remain operative.

SEC. 3. Section 18969 of the Welfare and Institutions Code is amended to read:

18969. There is hereby created in the State Treasury a fund which shall be known as the State Children's Trust Fund. The fund shall consist of funds received from a county pursuant to Section 18968, funds collected by the state and transferred to the fund pursuant to subdivision (b) of Section 10605 of the Health and Safety Code and Article 6 (commencing with Section 18500) of Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, grants, gifts, or bequests made to the state from private sources to be used for child abuse and neglect prevention and money appropriated to the fund for this purpose by the Legislature. The State Registrar may retain a percentage of the fees collected pursuant to Section 10605 of the Health and Safety Code, not to exceed 10 percent, in order to defray the costs of collection.

Notwithstanding Section 13340 of the Government Code, money in the State Children's Trust Fund is continuously appropriated without regard to fiscal years to the State Department of Social Services for the purpose of funding child abuse and neglect prevention and intervention programs. The department shall use no more than 5 percent of the funds appropriated pursuant to this section for administrative costs.

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 1083

An act to amend Section 821 of the Penal Code, relating to arrest.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 821 of the Penal Code, as amended by Chapter 236 of the Statutes of 1983, is amended to read:

821. If the offense charged is a felony, and the arrest occurs in the county in which the warrant was issued, the officer making the arrest must take the defendant before the magistrate who issued the warrant or some other magistrate of the same county.

If the defendant is arrested in another county, the officer must, without unnecessary delay, inform the defendant in writing of his right to be taken before a magistrate in that county, note on the warrant that he has so informed defendant, and, upon being required by defendant, take him before a magistrate in that county, who must admit him to bail in the amount specified in the endorsement referred to in Section 815a, and direct the defendant to appear before the court or magistrate by whom the warrant was issued on or before a day certain which shall in no case be more than 25 days after such admittance to bail. If bail be forthwith given, the magistrate shall take the same and endorse thereon a memorandum of the aforesaid order for the appearance of the defendant, or, if the defendant so requires, he may be released on bail set on the warrant by the issuing court, as provided in Section 1269b of this code, without an appearance before a magistrate.

If the warrant on which the defendant is arrested in another county does not have bail set thereon, or if the defendant arrested in another county does not require the arresting officer to take him before a magistrate in that county for the purpose of being admitted to bail, or if such defendant, after being admitted to bail, does not forthwith give bail, the arresting officer shall immediately notify the law enforcement agency requesting the arrest in the county in which the warrant was issued that such defendant is in custody, and thereafter such law enforcement agency shall take custody of the defendant within five days, or five court days if the law enforcement agency requesting the arrest is more than 400 miles from the county in which the defendant is held in custody, in the county in which he was arrested and shall take such defendant before the magistrate who issued the warrant, or before some other magistrate of the same county.

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 1084

An act to amend Section 13401.5 of the Corporation Code, relating to professional corporations.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 13401.5 of the Corporation Code is amended to read:

13401.5. Notwithstanding subdivision (c) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by such licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein and so long as the number of such licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

(a) Medical corporation.
(1) Licensed podiatrists.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Optometrists.
(5) Licensed marriage, family and child counselors.
(6) Licensed clinical social workers.
(7) Licensed physicians' assistants.
(b) Podiatry corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Registered nurses.
(4) Optometrists.
(c) Psychological corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Registered nurses.
(4) Optometrists.
(5) Licensed marriage, family and child counselors.
(6) Licensed clinical social workers.
(d) Speech pathology corporation
(1) Licensed audiologist.

(e) Audiology corporation.
(1) Licensed speech pathologist.
(f) Nursing corporation.
(1) Licensed physicians and surgeons.
(2) Licensed podiatrists.
(3) Licensed psychologists.
(4) Optometrists.
(5) Licensed marriage, family and child counselors.
(6) Licensed clinical social workers.
(7) Licensed physicians' assistants.
(g) Marriage, family and child counseling corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed clinical social workers.
(4) Registered nurses.
(h) Licensed clinical social worker corporation.
(1) Licensed physicians and surgeons.
(2) Licensed psychologists.
(3) Licensed marriage, family and child counselors.
(4) Registered nurses.
(i) Physicians' assistants corporation
(1) Licensed physicians and surgeons.
(2) Registered nurses.

CHAPTER 1085

An act to amend Sections 5120, 5152, 5222, 6321, 7120, 7152, 7222, 7235, 7352, 7813.5, 8321, 9120, 9152, 9222, 10820, and 10840 of, to repeal and add Sections 10821 and 10841 of, and to repeal Sections 10822, 10823, 10824, 10825, 10826, 10842, 10843, 10844, 10845, 10846, and 10847 of, the Corporations Code, relating to nonprofit corporations.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 5120 of the Corporations Code is amended to read:

5120 (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) If initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles; if initial directors are not named in the articles, the articles shall be signed by one or more persons who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by

law or in the articles.

(d) At the time of filing pursuant to this section, a corporation shall furnish an additional copy of its articles to the Secretary of State who shall forward that copy to the Attorney General.

SEC. 2. Section 5152 of the Corporations Code is amended to read:

5152. A corporation may provide in its bylaws for delegates having some or all of the authority of members. Where delegates are provided for, the bylaws shall set forth delegates' terms of office, any reasonable method for delegates' selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates and may set forth the manner in which delegates may act by written ballot similar to Section 5513 for written ballot of members. Delegates may only act personally at a meeting or by written ballot and may not act by proxy. Delegates may be given a name other than "delegates."

SEC. 2.1. Section 5222 of the Corporations Code is amended to read:

5222. (a) Subject to subdivisions (b) and (f) of this section, any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal is approved by a majority of all members (Section 5033).

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(3) In a corporation with no members, such removal is approved by a majority of the directors then in office.

(b) Except for a corporation having no members pursuant to Section 5310:

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 5616, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(3) When by the provisions of the articles or bylaws the members within a chapter or other organizational unit, or region or other geographic grouping, voting as such, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members within such organizational unit or geographic grouping.

(c) Any reduction of the number of directors authorized in the

articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(d) Except as provided in this section and Sections 5221 and 5223, a director may not be removed prior to the expiration of such director's term of office.

(e) Where a director removed under this section or Section 5221 or 5223 was chosen by designation pursuant to subdivision (d) of Section 5220, then:

(1) Where a different person may be designated pursuant to governing article or bylaw provision, such new designation shall be made.

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed

(f) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, then:

(1) Unless otherwise provided in the articles or bylaws at the time of designation any director so designated may be removed without cause by the designating person or persons.

(2) Any director so designated may only be removed under subdivision (a) with the written consent of the designating person or persons.

SEC. 2.2. Section 6321 of the Corporations Code is amended to read:

6321. (a) Except as provided in subdivision (c), (d), or (f), the board shall cause an annual report to be sent to the members not later than 120 days after the close of the corporation's fiscal year Such report shall contain in appropriate detail the following:

(1) The assets and liabilities, including the trust funds, of the corporation as of the end of the fiscal year.

(2) The principal changes in assets and liabilities, including trust funds, during the fiscal year.

(3) The revenue or receipts of the corporation, both unrestricted and restricted to particular purposes, for the fiscal year.

(4) The expenses or disbursements of the corporation, for both general and restricted purposes, during the fiscal year.

(5) Any information required by Section 6322.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

(c) Subdivision (a) does not apply to any corporation which receives less than twenty-five thousand dollars ($25,000) in gross revenues or receipts during the fiscal year.

(d) Where a corporation has provided, pursuant to Section 5510, for regular meetings of members less often than annually, then the report required by subdivision (a) need be made to members only with the frequency with which regular membership meetings are

required, unless the articles or bylaws require a report more often.

(e) Subdivisions (c) and (d) notwithstanding, a report with the information required by subdivision (a) shall be furnished annually to:

(1) All directors of the corporation; and

(2) Any member who requests it in writing.

(f) A corporation which in writing solicits contributions from 500 or more persons need not send the report otherwise required by subdivision (a) if it does all of the following:

(i) Includes with any written material used to solicit contributions a written statement that its latest annual report will be mailed upon request and that such request may be sent to the corporation at a name and address which is set forth in the statement.

The term "annual report" as used in this subdivision refers to the report required by subdivision (a).

(ii) Promptly mails a copy of its latest annual report to any person who requests a copy thereof; and

(iii) Causes its annual report to be published not later than 120 days after the close of its fiscal year in a newspaper of general circulation in the county in which its principal office is located.

SEC. 3. Section 7120 of the Corporations Code is amended to read:

7120 (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) If initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles; if initial directors are not named in the articles, the articles shall be signed by one or more persons who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

SEC. 4. Section 7152 of the Corporations Code is amended to read:

7152. A corporation may provide in its bylaws for delegates having some or all of the authority of members. Where delegates are provided for, the bylaws shall set forth delegates' terms of office, any reasonable method for delegates' selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates and may set forth the manner in which delegates may act by written ballot similar to Section 7513 for written ballot of members. Delegates may only act personally at a meeting or by written ballot and may not act by proxy. Delegates may be given a name other than "delegates."

SEC. 4.1. Section 7222 of the Corporations Code is amended to read:

7222. (a) Subject to subdivisions (b) and (f) of this section, any or all directors may be removed without cause if:

(1) In a corporation with fewer than 50 members, such removal

is approved by a majority of all members (Section 5033).

(2) In a corporation with 50 or more members, such removal is approved by the members (Section 5034).

(3) In a corporation with no members, such removal is approved by a majority of the directors then in office.

(b) Except for a corporation having no members, pursuant to Section 7310:

(1) In a corporation in which the articles or bylaws authorize members to cumulate their votes pursuant to subdivision (a) of Section 7615, no director may be removed (unless the entire board is removed) when the votes cast against removal, or not consenting in writing to such removal, would be sufficient to elect such director if voted cumulatively at an election at which the same total number of votes were cast (or, if such action is taken by written ballot, all memberships entitled to vote were voted) and the entire number of directors authorized at the time of the director's most recent election were then being elected.

(2) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(3) When by the provisions of the articles or bylaws the members within a chapter or other organizational unit, or region or other geographic grouping, voting as such, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members within such organizational unit or geographic grouping.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

(d) Except as provided in this section and Sections 7221 and 7223, a director may not be removed prior to the expiration of such director's term of office.

(e) Where a director removed under this section or Section 7221 or 7223 was chosen by designation pursuant to subdivision (d) of Section 7220, then:

(1) Where a different person may be designated pursuant to the governing article or bylaw provision, such new designation shall be made.

(2) Where the governing article or bylaw provision contains no provision under which a different person may be designated, the governing article or bylaw provision shall be deemed repealed.

(f) When by the provisions of the articles or bylaws a person or persons are entitled to designate one or more directors, then:

(1) Unless otherwise provided in the articles or bylaws at the time of designation, any director so designated may be removed without cause by the designating person or persons.

(2) Any director so designated may only be removed under subdivision (a) with the written consent of the designating person

or persons.

SEC. 5. Section 7235 of the Corporations Code is amended to read:

7235. (a) Unless prohibited by the articles or bylaws, a corporation may loan money or property to, or guarantee the obligation of, any director or officer of the corporation or of its parent, affiliate or subsidiary, provided:

(1) The board determines the loan or guaranty may reasonably be expected to benefit the corporation.

(2) Prior to consummating the transaction or any part thereof, the loan or guaranty is either:

(A) Approved by the members (Section 5034), without counting the vote of the director or officer, if a member, or

(B) Approved by the vote of a majority of the directors then in office, without counting the vote of the director who is to receive the loan or the benefit of the guaranty.

(b) Notwithstanding subdivision (a), a corporation may advance money to a director or officer of the corporation or of its parent, affiliate or subsidiary, for any expenses reasonably anticipated to be incurred in the performance of the duties of the director or officer of the corporation or of its parent, affiliate or subsidiary, provided that in the absence of such an advance the director or officer would be entitled to be reimbursed for these expenses by the corporation, its parent, affiliate, or subsidiary.

(c) The provisions of subdivisions (a) and (b) do not apply to credit unions, or to the payment of premiums in whole or in part by a corporation on a life insurance policy on the life of a director or officer so long as repayment to the corporation of the amount paid by it is secured by the proceeds of the policy and its cash surrender value, or to loans permitted under any statute regulating any special class of corporations.

SEC. 5.1. Section 7352 of the Corporations Code is amended to read:

7352. A person holding a membership as pledgee or a membership as executor, administrator, guardian, trustee, receiver or in any representative or fiduciary capacity is not personally liable for any unpaid balance of the purchase price of the membership, or for any amount owing to the corporation by the member, because the membership is so held, but the estate and funds in the hands of such fiduciary or representative are liable and the membership subject to sale therefor.

SEC. 5.2. Section 7813.5 of the Corporations Code is amended to read:

7813.5. (a) A mutual benefit corporation may amend its articles to change its status to that of a public benefit corporation, a religious corporation or a business corporation by complying with the provisions of this section and the other sections of this chapter.

(b) Except as authorized by Section 7811 or unless the corporation has no members, an amendment to change its status to a public

benefit corporation or religious corporation shall: (i) be approved by the members (Section 5034), and the fairness of the amendment to the members shall be approved by the Commissioner of Corporations pursuant to Section 25142; (ii) be approved by the members (Section 5034) in an election conducted by written ballot pursuant to Section 7513 in which no negative votes are cast; or (iii) be approved by 100 percent of the voting power.

(c) Amended articles authorized by this section shall include the provisions which would have been required (other than the name of the initial agent for service of process if a statement has been filed pursuant to Section 8210), and may in addition only include those provisions which would have been permitted, in original articles filed by the type of corporation (public benefit, religious or business) into which the mutual benefit corporation is changing its status.

(d) At the time of filing a certificate of amendment to change status to a public benefit corporation, a corporation shall furnish an additional copy of the certificate of amendment to the Secretary of State who shall forward that copy to the Attorney General.

(e) In the case of a change of status to a business corporation, if the Franchise Tax Board has issued a determination exempting the corporation from tax as provided in Section 23701 of the Revenue and Taxation Code, the corporation shall be subject to Section 23221 of the Revenue and Taxation Code upon filing the certificate of amendment.

SEC. 5.3. Section 8321 of the Corporations Code is amended to read:

8321. (a) A corporation shall notify each member yearly of the member's right to receive a financial report pursuant to this subdivision. Except as provided in subdivision (c), upon written request of a member the board shall promptly cause the most recent annual report to be sent to the requesting member. An annual report shall be prepared not later than 120 days after the close of the corporation's fiscal year. Such report shall contain in appropriate detail the following:

(1) A balance sheet as of the end of such fiscal year and an income statement and statement of changes in financial position for such fiscal year.

(2) A statement of the place where the names and addresses of the current members are located.

(3) Any information required by Section 8322.

(b) The report required by subdivision (a) shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the corporation that such statements were prepared without audit from the books and records of the corporation.

(c) Subdivision (a) does not apply to any corporation which receives less than ten thousand dollars ($10,000) in gross revenues or receipts during the fiscal year.

SEC. 6. Section 9120 of the Corporations Code is amended to

read:

9120. (a) One or more persons may form a corporation under this part by executing and filing articles of incorporation.

(b) If initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles; if initial directors are not named in the articles, the articles shall be signed by one or more persons who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

SEC. 7. Section 9152 of the Corporation Code is amended to read:

9152. Any corporation may provide in its bylaws for delegates having some or all of the authority of members. Where delegates are provided for, the bylaws shall set forth delegates' terms of office, any reasonable method for delegates' selection and removal, and any reasonable method for calling, noticing and holding meetings of delegates and may set forth the manner in which delegates may act by written ballot similar to Section 9413 for written ballot of members. Delegates may only act personally at a meeting or by written ballot and may not act by proxy. Delegates may be given a name other than "delegates."

SEC. 8. Section 9222 of the Corporations Code is amended to read:

9222. (a) Except as provided in the articles or bylaws and subject to subdivision (b) of this section, any or all directors may be removed without cause if such removal is approved by the members (Section 5034).

(b) Except for a corporation having no members pursuant to Section 9310:

(1) When by the provisions of the articles or bylaws the members of any class, voting as a class, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members of that class.

(2) When by the provisions of the articles or bylaws the members within a chapter or other organizational unit, or region or other geographic grouping, voting as such, are entitled to elect one or more directors, any director so elected may be removed only by the applicable vote of the members within such organizational unit or geographic grouping.

(c) Any reduction of the number of directors authorized in the articles or bylaws does not remove any director prior to the expiration of such director's term of office.

SEC. 8.5. Section 10820 of the Corporations Code is amended to read:

10820. (a) "Health care service plan," as used in this section means a corporation which is a health care service plan defined in 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), other than a corporation which is exempted from that act by subdivision (d) of Section 1343 of the Health and Safety Code.

(b) A health care service plan may be formed under or subject to Part 2 (commencing with Section 5110) of this division or Part 3 (commencing with Section 7110) of this division.

SEC. 9. Section 10821 of the Corporations Code is repealed.

SEC. 9.5. Section 10821 is added to the Corporations Code, to read:

10821. Notwithstanding any other provision of this division, as to a health care service plan which is formed under or subject to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of this division, all references to the Attorney General contained in Part 2 or Part 3 of this division shall, in the case of health care service plans, be deemed to refer to the Commissioner of Corporations.

SEC. 10. Section 10822 of the Corporations Code is repealed.

SEC. 11. Section 10823 of the Corporations Code is repealed.

SEC. 12. Section 10824 of the Corporations Code is repealed.

SEC. 13. Section 10825 of the Corporations Code is repealed.

SEC. 14. Section 10826 of the Corporations Code is repealed.

SEC. 14.5. Section 10840 of the Corporations Code is amended to read:

10840. (a) "Hospital service plan," as used in this section means a corporation which is a nonprofit hospital service plan defined in Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(b) A hospital service plan may be formed under or subject to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110).

SEC. 15. Section 10841 of the Corporations Code is repealed.

SEC. 16. Section 10841 is added to the Corporations Code, to read:

10841. Notwithstanding any other provision of this division, as to a hospital service plan which is formed under or subject to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of this division, all references to the Attorney General contained in Part 2 or Part 3 of this division shall, in the case of hospital service plans, be deemed to refer to the Insurance Commissioner.

SEC. 17. Section 10842 of the Corporations Code is repealed.

SEC. 18. Section 10843 of the Corporations Code is repealed.

SEC. 19. Section 10844 of the Corporations Code is repealed.

SEC. 20. Section 10845 of the Corporations Code is repealed.

SEC. 21. Section 10846 of the Corporations Code is repealed.

SEC 22. Section 10847 of the Corporations Code is repealed.

CHAPTER 1086

An act to amend Section 4417 of the Public Resources Code, relating to rewards.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 4417 of the Public Resources Code is amended to read:

4417. A reward of up to five thousand dollars ($5,000) shall be paid out of any state funds which are made available to the department for fire protection to any person, other than a regularly paid fireman, peace officer, or agent or employee of the department, whose information leads to the arrest and conviction, or commitment to a public facility, of any person who willfully and maliciously sets fire to, or who attempts to willfully and maliciously set fire to, any property which is included within any state responsibility area as established under Article 3 (commencing with Section 4125) of Chapter 1.

The reward may be paid on the initiative of the department or upon application by any person qualifying therefor. One reward of up to five thousand dollars ($5,000) shall be paid under this section with respect to the same event or series of events involving the same defendant or defendants. If the department determines that more than one person is eligible for a reward arising out of information relating to the same event or series of events, the reward shall be divided among those persons, as determined by the department, taking into consideration the significance of the information contributed by each of those persons. The department may establish a program to preserve the anonymity of any person providing information and may pay a reward under that program.

Rewards paid under this section shall be considered an emergency fire suppression and detection expenditure for budgeting purposes.

CHAPTER 1087

An act to add Chapter 6.9 (commencing with Section 25400) to Division 20 of the Health and Safety Code, relating to public liability.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Chapter 6.9 (commencing with Section 25400) is added to Division 20 of the Health and Safety Code, to read:

CHAPTER 6.9. LIABILITY FOR ABATEMENT OF HAZARDS

25400. (a) The Legislature finds and declares that a threat to the public health and safety exists wherever there is a discharge, spill, or presence of hazardous substances on public or private property; and that public entities and public safety employees should be encouraged to abate such hazards and to that end a qualified immunity from liability should be provided for public entities and public safety employees.

(b) Except as provided in Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code, neither a public entity nor a public safety employee shall be liable for any injury caused by an action taken by a public safety employee acting within the scope of employment to abate or attempt to abate hazards reasonably believed to be an imminent peril to public health and safety caused by the discharge, spill, or presence of a hazardous substance, unless the action taken was performed in bad faith or in a grossly negligent manner.

(c) For the purposes of this section, it shall be presumed that the action was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

(d) For the purposes of this section, "hazardous substance" means a substance that presents a threat to the public because of its toxicity, radioactivity, flammability, or other characteristic dangerous to the public health or the environment.

(e) It is not the intent of this section to impair any cause of action against the person, firm, or entity creating the spill, discharge, or presence of the hazardous material giving rise to the response of the public entity and public safety employee.

CHAPTER 1088

An act to amend Sections 6428, 6429, and 6430 of the Labor Code, relating to labor.

[Approved by Governor September 26, 1983. Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 6428 of the Labor Code is amended to read:

6428. Any employer who violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, if that violation is a serious violation, shall be assessed a civil penalty of up to two thousand dollars ($2,000) for

each violation.

SEC. 2. Section 6429 of the Labor Code is amended to read:

6429. Any employer who willfully or repeatedly violates any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, may be assessed a civil penalty of not more than ten thousand dollars ($10,000) for each violation. If the violation is a serious violation, the civil penalty may be not more than twenty thousand dollars ($20,000) for each violation.

SEC. 3. Section 6430 of the Labor Code is amended to read:

6430. Any employer who fails to correct a violation of any occupational safety or health standard, order, or special order, or Section 25910 of the Health and Safety Code, within the period permitted for its correction may be assessed a civil penalty of not more than one thousand dollars ($1,000) for each day during which the failure or violation continues. If the violation is a serious violation, the civil penalty assessed may be not more than two thousand dollars ($2,000) for each day during which the failure or violation continues.

CHAPTER 1089

An act to amend Section 50740 of, and to add Chapter 11 (commencing with Section 50800) to Part 2 of Division 31 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. The Legislature finds that as a direct result of current economic conditions thousands of people have recently become unemployed and homeless in California. The Legislature further finds and declares it to be in the public interest for the State of California to provide grants to local governmental agencies and nonprofit organizations which are experienced at providing shelter to the recently homeless on a temporary or emergency basis in order that these agencies and organizations may provide emergency shelter to additional needy persons and families.

SEC. 2. Section 50740 of the Health and Safety Code is amended to read:

50740. (a) The Rental Housing Construction Incentive Fund established in the State Treasury is hereby renamed the Rental Housing Construction Fund. Notwithstanding Section 13340 of the Government Code, money in the fund is hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b), (c), and

(d), shall be utilized for purposes of this chapter, including Section 50745.1, and for the purposes of Section 50775.5. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(b) Money from the fund utilized by the agency for development costs which was repaid to the agency or disencumbered between June 30, 1982, and June 30, 1983, and any additional funds or interest which is available for encumbrance on June 30, 1983, shall be deposited in a separate account in the fund and utilized as follows:

(1) Eight million one hundred thousand dollars ($8,100,000) shall be utilized by the agency for activities authorized by Article 4.5 (commencing with Section 51180) of Chapter 5 of Part 3.

(2) Five hundred thousand dollars ($500,000) shall be transferred by the agency to the department for deposit in the Rural Community Facility Grant Fund, established pursuant to Section 6125, and utilized to carry out the program established by Chapter 11 (commencing with Section 6120) of Part 3 of Division 5, if Assembly Bill 1604 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Three million dollars ($3,000,000) shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of Section 50661, if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(4) One million seven hundred thousand dollars ($1,700,000) shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized to carry out the program established by Chapter 11 (commencing with Section 50800), if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(5) Two million five hundred thousand dollars ($2,500,000) shall be transferred by the agency to the Trustees of the California State University for deposit in the Affordable Student Housing Revolving Fund, established pursuant to Section 90087 of the Education Code, and utilized to carry out the program established by Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code, if Assembly Bill 133 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(6) Three hundred thousand dollars ($300,000) shall be

transferred by the agency to the department and utilized to carry out the program established by Chapter 3 6 (commencing with Section 50533), if Senate Bill 19 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(7) Four million two hundred thousand dollars ($4,200,000) shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes authorized by that section, if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(c) An amount not to exceed four million dollars ($4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in the separate account established pursuant to subdivision (b) and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for the purposes specified in paragraph (3) of subdivision (b) if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized for the purposes specified in paragraph (4) of subdivision (b) if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes specified in paragraph (7) of subdivision (b) if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(d) If any of the bills specified in paragraphs (2) to (7), inclusive, of subdivision (b), or subdivision (c), are not chaptered or do not become effective and operative on or before January 1, 1984, or the expenditure of funds for any of the purposes authorized by subdivisions (b) or (c) is otherwise reduced, the amount of funds allocated pursuant to those subdivisions shall be reallocated by the agency, between January 1, 1984, and January 14, 1984, among the remaining programs specified in subdivision (b) or (c), for which the funds were not reduced, on a pro rata basis.

SEC. 3. Chapter 11 (commencing with Section 50800) is added to Part 2 of Division 31 of the Health and Safety Code, to read:

CHAPTER 11. EMERGENCY HOUSING AND ASSISTANCE FUND

50800. There is hereby created in the State Treasury the Emergency Housing and Assistance Fund. Notwithstanding Section 13340 of the Government Code, all money in the fund is continuously appropriated to the department to carry out the purposes of this chapter.

50801. As used in this chapter:

(a) "Eligible recipient" means an agency of local government or a nonprofit organization experienced in providing shelter effectively and efficiently to persons on an emergency or temporary basis.

(b) "Department" means the Department of Housing and Community Development.

50802. The department shall adopt guidelines to govern the distribution of funds in accordance with the intent and provisions of this chapter. The guidelines may set priorities in funding for applications from eligible recipients who will provide matching funds or in-kind contributions or applicants who are able to serve families with children. The department may consult with private and public groups experienced in providing emergency shelter in order to assist the department in evaluating applications for grants under this chapter.

50803. The department shall accept applications for grants pursuant to this chapter from local governmental agencies and nonprofit organizations which are eligible recipients and which are, at the time the application is made, providing emergency shelter to needy persons and families.

50804. The department shall award grants in a timely fashion pursuant to Section 50802. The department shall provide funding only to eligible recipients. Any application for funds may be rejected, if in the department's judgment, the grant would not result in efficient provision of shelter to the homeless.

50805. Any eligible recipient awarded a grant pursuant to this chapter, shall be required:

(a) To use the grant fund to provide emergency shelter to needy persons.

(b) To practice nondiscrimination in the provision of shelter.

(c) To use no more than 2 percent of the grant funds to defray administrative costs.

(d) To use grant funds to supplement, not supplant, other state and local programs providing social services, health care, and housing assistance.

(e) To meet any other qualifications the department finds necessary to carry out the intent of this chapter.

Grant funds shall not be used to construct buildings for use as emergency shelters but may, with department approval, be used to renovate, repair, or equip buildings.

50806. (a) The department shall not award more than two hundred fifty thousand dollars ($250,000) to any eligible recipient

under each application.

(b) The department shall use not more than 1 percent of the amounts made available for grants to cover its administrative costs pursuant to this chapter.

(c) The department shall report to the Governor and Legislature on the use of funds pursuant to this chapter, including, but not limited to, a listing of all grant recipients, the amount of the grant awarded, the purposes to which the grant funds would be put, and the address of the grant recipient.

CHAPTER 1090

An act to add Section 66021 to the Education Code, relating to student financial aid.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1 Section 66021 is added to the Education Code, to read:

66021. It is the intent of the Legislature that the Budget Act for each fiscal year provide sufficient funding for financial aid for students with demonstrated financial need at the University of California, the California State University, and the California community colleges to offset increases in student charges at those institutions. The Legislature intends that funds for increased student financial aid be provided from sources other than student fees.

CHAPTER 1091

An act to repeal and add Division 2 (commencing with Section 5000) to the Financial Code, relating to savings and loan associations, and making an appropriation therefor.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Division 2 (commencing with Section 5000) of the Financial Code is repealed.

SEC. 2. Division 2 (commencing with Section 5000) is added to the Financial Code, to read:

DIVISION 2 SAVINGS ASSOCIATION LAW

CHAPTER 1. SHORT TITLE, GENERAL DEFINITIONS AND GENERAL PROVISIONS

Article 1. Short Title

5000. This division may be cited as the "Savings Association Law."

Article 2. General Definitions

5100. When used in this division, the words and phrases set forth in this article shall have the meanings given in this article unless the context requires another meaning.

5101. "Approved by the members," in the case of a mutual association, means approved by a majority of all votes cast at a duly held regular or special meeting or by the written consent (including consents by proxy) of a majority of the total votes of members outstanding at the close of business on the next business day prior to the date that the requisite written consents have been filed with the association.

5102. (a) "Association" or "savings association" means a mutual or stock savings association, savings and loan association or savings bank subject to the provisions of this division, but excluding a federal association.

(b) "Federal association" means a savings and loan association or federal savings bank that is chartered by the Federal Home Loan Bank Board under Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. Sec. 1461 et seq.), as amended.

5103. "Certificate of authority" means:

(a) A certificate of authority to transact the business of an association, which is issued by the commissioner pursuant to this division.

(b) An uncanceled annual license issued to an association under prior law which is valid on the effective date of this division.

5104. "Commissioner" means the Savings and Loan Commissioner

5105. "Community" means a centralized area or locality in which a body of inhabitants is gathered in one group having common residential, social, or business interests. The term does not necessarily mean a municipal corporation or other political subdivision. A community need not be limited by lines and boundaries. A city, village, town, or other governmental unit, either incorporated or unincorporated, may constitute one community, but a large, populous area under one or more forms of government may be composed of several communities.

5106. "Department" means the Department of Savings and Loan.

5107. "Financial institution" means a thrift institution, commercial bank, or trust company.

5108. "Impaired condition" means a condition in which the assets of an association in the aggregate do not have a value, as determined in accordance with generally accepted accounting principles, equal to or greater than the aggregate amount of liabilities of the association to its creditors, including the holders of its savings accounts and all other persons who are creditors.

5109. "Mutual association" means an association for which the articles of incorporation do not authorize the issuance of capital stock.

5110. "Member" means a person holding a savings account of a mutual association. A joint and survivorship or other multiple owner constitutes a single membership.

5111. "Mutual capital certificate" means a certificate evidencing an investment in a mutual association and issued pursuant to provisions of this division.

5112. "Net worth certificate" means a certificate issued by an association in accordance with Section 406(f)(5)(A)(i) of the National Housing Act (12 U.S.C., Sec. 1701 et seq.) and regulations promulgated thereunder by the Federal Savings and Loan Insurance Corporation.

5113. "Person" means any individual, domestic, or foreign corporation, entity, voting trust, business trust, partnership, association, syndicate, organized group of persons, or similar organization, group or entity, whether incorporated or not.

5114. "Primarily residential property" means real estate on which there is located, or will be located pursuant to a real estate loan, any of the following:

(a) A structure or structures designed or used primarily for residential rather than nonresidential purposes and consisting of more than one dwelling unit.

(b) A structure or structures designed or used primarily for residential rather than nonresidential purposes for students, residents, and persons under the care of, or the employees or members of the staff of, an educational, health, or welfare institution or facility.

(c) A structure or structures that are used in part for residential purposes for not more than one family and in part for business purposes if the residential use of the structure or structures is substantial and permanent and not merely transitory.

5115. "Real estate loan" means any of the following:

(a) A loan or other obligation secured by a lien on real estate that is held in fee or in a leasehold extending or renewable automatically or at the option of the holder or the association for a period of at least five years beyond the date scheduled for the final principal payment of the loan or obligation. If secured by a leasehold interest, the appraised value shall be the market value of the leasehold and not of that fee title.

(b) Any transaction out of which a lien or its equivalent is created against real estate, including the purchase of real estate in fee by an association and its concurrent or immediate sale by installment contract.

5116. "Savings account" means that part of the savings liability of an association that is credited to the holder of the account. A savings account may be referred to as a deposit.

5117. "Savings bank" means a savings bank organized under this division.

5118. "Savings liability" means the aggregate amount of savings accounts of depositors, including interest credited to the accounts, less redemptions and withdrawals.

5119. "Service corporation" means a corporation, other than a wholly owned subsidiary referred to in Section 7300, in which at least 80 percent of the shares of stock having voting rights are owned by one or more associations or federal associations.

5120. "Statutory net worth" means the sum of the following:

(a) Issued and outstanding capital stock.

(b) Issued and outstanding capital certificates.

(c) Paid-in surplus.

(d) Retained earnings.

(e) Pledged savings accounts of a mutual association with the approval of the commissioner.

(f) General reserves and other amounts as the commissioner prescribes.

5121. "Stock association" means an association for which the articles of incorporation authorize the issuance of capital stock.

5122. "Stockholder" means the holder of one or more shares of any class of capital stock of a capital stock association which is organized and operating pursuant to the provisions of this division.

5123. "Thrift institution" means an association, a cooperative bank, a homestead association, a building and loan association, a federal association, a federal savings bank, a state or federal credit union, an industrial loan company, and a supervised thrift and residential financing institution of a substantially similar nature.

5124. "Withdrawal value" means the amount credited to a savings account less lawful deductions, as shown by the records of the association.

5125. (a) All references in this division to financial statements, balance sheets, income statements, and statements of changes in financial position of an association and all references to assets, liabilities, earnings, retained earnings, shareholders' equity, and similar accounting items of an association, mean financial statements or items prepared or determined in conformity with generally accepted accounting principles then applicable which fairly present in conformity with generally accepted accounting principles the matters that they purport to present, subject to any specific accounting treatment required by any provision of this division, or by any regulation or order issued under this division.

(b) The commissioner may, by regulation or order, require that any financial statement or accounting item of an association be prepared or determined in a manner other than in conformity with generally accepted accounting principles if it is found that the other manner of preparation or determination is necessary or appropriate to carry out the purposes or provisions of this division.

Article 3. General Provisions

5200. Whoever willfully and knowingly makes, issues, circulates, transmits or causes or knowingly permits to be made, issued, circulated or transmitted, any statement or rumor which is written, printed, reproduced in any manner, or communicated by word of mouth, that is untrue in fact and is directly or by inference false, or malicious in that it is calculated to injure the reputation or business, financial condition, or standing of any association shall be fined not more than five thousand dollars ($5,000) or imprisoned in the state prison, or both.

5201. Whoever knowingly makes or causes to be made, directly or indirectly, or through any agency whatsoever, any false statement or report, or willfully overvalues any land, property, or security, for the purpose of influencing in any way the action of any association upon any application, advance, discount, purchase or repurchase agreement, commitment, or loan or the change or extension of any of these transactions by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security for these transactions shall be fined not more than five thousand dollars ($5,000) or imprisoned in the state prison, or both.

5202. Every person who willfully violates or willfully fails to comply with any of the provisions of this division is guilty of a public offense. Except where the offense is declared to be a felony or a misdemeanor or a different punishment is prescribed, a person convicted under this section shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both the fine and imprisonment.

5203. (a) The name, rights, powers, privileges, and immunities of each association in existence on the effective date of this division shall be governed by the provisions of this division to the same extent and effect as if the association had been incorporated pursuant to this division. The articles of incorporation and bylaws of an association existing on the effective date of this division may be amended to conform to the provisions of this division, with or without the issuance or approval by the commissioner of conformed copies of those documents, and the provisions in the articles and bylaws are superseded to the extent that they are inconsistent with the provisions of this division, except that the obligations of the existing association between the association and its stockholders, members, or any valid contract between the stockholders or members of the

association or between the association and any other persons, existing at the time this division takes effect, shall not be impaired by the provisions of this division. With these exceptions, each association in existence on the effective date of this division shall possess all the rights, powers, privileges, and immunities and shall be subject to all the duties, liabilities, disabilities, and restrictions conferred and imposed by this division, notwithstanding anything to the contrary in its articles of incorporation, bylaws, or rules.

(b) The power of each association in existence on the effective date of this division pursuant to its articles of incorporation or bylaws to issue voting interests to savings account holders, shall not be impaired by any provision of this division.

5204. (a) Wherever it is stated in this division that an agreement or contract contrary to any of the division's provisions is void, the statement is limited to the particular portion of the agreement or contract that is contrary to the provision, and the entire agreement or contract is not void unless the particular part is not a separable portion.

Unless expressly so provided, the violation of any provision of this division does not render invalid any agreement, contract, stock, savings account, note, trust deed, mortgage, or other instrument.

(b) No provision of this division imposing any liability, either civil or criminal, applies to any act done or omitted in good faith in conformity with any rule, regulation, approval, consent, order, direction, or other act of the commissioner, even if the rule, regulation, approval, consent, order, direction, or other act of the commissioner is amended, rescinded, or determined invalid by judicial or other authority, after the act or omission.

5205. Whenever the term " association" is used in any provision of law, such term shall be deemed to include savings banks organized under this division; and wherever the term "federal association" is so used, such term shall be deemed to include federal savings banks.

5206. Whenever the terms "board of directors," "directors," or "director" is used in any provision of law such terms shall mean, with respect to savings banks organized under this division, "board of trustees," "trustees," or "trustee."

5207. If any provision, clause, or phrase of this division or application to any person or circumstance is held invalid, its invalidity shall not affect other provisions or applications of this division that can be given effect without the invalid provisions or application, and to this end, the provisions of this division are separable.

5208. This division, being a comprehensive coverage of its subject matter, shall not be deemed to be impliedly repealed, in whole or in part, by subsequent legislation not specifically repealing it, if that construction can be avoided.

5209. Insofar as the provisions of this division are inconsistent with any other law in effect at the time the provisions of this division are enacted, the provisions of this division shall control. Except as

provided in subdivision (a) of Section 6500, nothing within this section is intended to provide for preemption of other provisions of law expressly overruling the provisions of this division and enacted subsequent to the effective date of the inconsistent provision within this division.

CHAPTER 2. CORPORATE ORGANIZATION AND CORPORATE CHANGES

Article 1. Organizing Permit

5400. (a) No funds from proposed stockholders, members, or organizers of any proposed association may be collected until a verified application for an organizing permit has been filed and a permit has been issued by the commissioner authorizing collection of funds, and then only in accordance with the terms of the permit.

(b) As used in this chapter, the term "organizer" means a person who agrees to contribute funds to a proposed association to be used for its organization expenses.

5401. The application for an organizing permit shall be in writing and shall be filed in the office of the commissioner. The application shall be executed and verified by the chairman of the organizers, who shall be elected by a majority vote of the organizers, and shall include the following:

(a) The names and addresses of the organizers of the proposed association and, to the extent known, its proposed directors and officers, together with the proposed amount of capital stock and savings accounts to be purchased and funds for organization expenses to be contributed by each.

(b) The proposed location of its office.

(c) A copy of any contract proposed to be used for the solicitation of subscriptions for stock and savings accounts and funds for its organization expenses.

(d) A copy of any advertisement, circular, or other written matter proposed to be used for soliciting stock and savings accounts subscriptions and funds for organization expenses.

(e) An itemized estimate of the organization expenses proposed to be incurred.

(f) A copy of the certificate of reservation of name issued under Section 5403. The name selected shall conform with the requirements of Article 4 (commencing with Section 5650).

(g) Any additional information that the commissioner may require by written instructions.

5402. (a) The commissioner may impose conditions in an organizing permit concerning the deposit in escrow of funds collected pursuant to the permit, the manner of expenditure of the funds, and any other conditions deemed reasonable and necessary or advisable for the protection of the public, the subscribers, and the organizers.

(b) Contributions of organization expenses may be repaid to organizers on a pro rata basis by the association from its net income from operations after provision for statutory reserves.

5403. (a) Before filing an application for an organizing permit with the commissioner under Section 5400, an organizer shall file with the Secretary of State an application for a certificate of a reservation of the name for the proposed association in accordance with the provisions of Article 4 (commencing with Section 5650).

(b) The application filed with the Secretary of State shall recite the fact of the application to be filed under Section 5400 and the Secretary of State shall issue a certificate of reservation of name upon payment of any required fee.

(c) Notwithstanding the provisions of Section 201 of the Corporations Code, the name contained in the certificate of reservation of the name shall be reserved to the applicant until (1) the commissioner denies the petition for a certificate of authority, or (2) if a certificate of approval of articles of incorporation is issued, as long as it continues in effect, or (3) for a period of up to one year from the date when the certificate of reservation of the name is issued, whichever of these occurs first.

(d) The Secretary of State may, upon the request of the applicant and the approval of the commissioner, extend the reservation of the name for an additional six months.

Article 2. Petition for Certificate of Authority

5500. Within 60 days after issuance of an organizing permit under Article 1 (commencing with Section 5400) any person may request authority to form a capital stock or mutual association by filing with the commissioner three copies of a petition for a certificate of authority in the format prescribed by the commissioner, accompanied by the requisite filing fees and the proposed articles of incorporation in a form prescribed by the commissioner by regulations. This filing shall be in lieu of the requirements of paragraph (1) of subdivision (b) (for stock associations), and also subdivisions (d) and (e) (for mutual associations), of Section 202 of the Corporations Code. Unless accompanied by a certification that the appropriate form of preapproved bylaws set forth in regulations issued by the commissioner shall be adopted, the petition shall also be accompanied by three copies of proposed bylaws which shall make provisions for the following:

(a) Annual and special meetings of members or stockholders, and notice of meetings.

(b) Procedure for nomination of directors.

(c) Meetings of board of directors.

(d) Resignation and removal of directors.

(e) Compensation of directors.

(f) Officers.

(g) Execution of instruments

(h) Evidence of savings accounts.
(i) Corporate seal.
(j) Fiscal year.
(k) Amendments.
(*l*) Disaster preparedness.
(m) Other matters, if any.

The petitioners shall submit with their petitions any applicable filing fee prescribed under Section 9001 and any statements, exhibits, maps, and other data that the commissioner may require in a form which is sufficiently detailed and comprehensive to enable the commissioner to make a decision on the petition based on the criteria set out in Section 5502.

5501. Upon receipt of a petition for a certificate of authority, the commissioner shall give written notice to each association that a petition for the issuance of a certificate has been made. The notice shall state the name of the proposed association, where the petitioners propose to establish the home office of the association, and if the commissioner determines that a hearing is to be held on the petition, the time and place of the hearing. The hearing shall be held 10 or more days after the mailing of the notice but in no event later than 60 days after the mailing of the notice. Any interested person may appear at the hearing in person or by agent or attorney, and orally or in writing show cause upon any relevant ground why a certificate should not be issued.

5502. The commissioner shall not approve any petition for certificate of authority unless it is found from the data furnished with the petition, the evidence adduced at the hearing, if one is held, and official records, that the prerequisites of this division have been complied with and that:

(a) The character, responsibility, financial resources, and general fitness of the persons named in the petition warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purpose of this division and that the proposed association will have qualified full-time management.

(b) There is a public need for the proposed association and the business plan, and the anticipated volume of business of the proposed association indicates a profitable operation.

5503. The commissioner shall, within a reasonable time after the petition is filed, or within a reasonable time after the hearing, if one is held, either approve or deny the petition for a certificate of authority. If approved, the commissioner shall issue a certificate of approval of the articles of incorporation of the association and shall issue a notice of conditional approval of the petition for a certificate of authority. Upon satisfaction of all of the conditions in the notice, the commissioner shall execute and issue to the association a certificate of authority.

5504. Upon issuance of a certificate of approval of articles of incorporation to a proposed association, the commissioner shall

attach the original signed copy of the certificate of approval to the original signed copy of the articles and deliver it to the proposed association for filing with the Secretary of State. Corporate existence shall begin on the date of filing of the articles with the Secretary of State. Prior to the date the commissioner issues the association a certificate of authority, the activities of the association shall be limited to completing its organization activities and the association shall not open its office for transacting business with the public.

5505. The articles of incorporation of a proposed association shall not be filed in the office of the Secretary of State unless a certificate of approval of the articles of incorporation issued by the commissioner is attached thereto.

5506. Within 30 days after the corporate existence of an association begins, the directors of the association shall hold an organization meeting and shall elect officers pursuant to the provisions of this division and the bylaws. At the organization meeting, the directors shall take any other action that is appropriate in connection with the organization of the association. The commissioner may extend by order the time within which the organization meeting shall be held.

Article 3. Postincorporation Organization of Associations

5600. (a) The board of directors of an association which is in the process of organization shall select a financial institution within this state as a depository for stock, savings account and mutual capital certificate subscription funds.

(b) The financial institution shall assure the safekeeping of the subscription funds and the delivery of these funds to the association after the issuance of the certificate of authority and after the bonding of the officers. In the event of the failure to complete the organization of the association and to commence business, the financial institution shall insure the return of the amounts collected to the respective subscribers or their assigns, plus any earnings on the funds, less reasonable charges of the financial institution for services as depository of the funds.

5601. Before a certificate of authority is issued, the capital of the association shall be paid in to the association and, in the case of stock, shall be the sum of the par or initially stated value of all shares of capital stock, plus the initial paid-in surplus. The minimum required capital shall be established by regulations issued by the commissioner

5602. In addition to the minimum capital required, the commissioner may require that the consideration for the issuance of capital stock shall be sufficient to create a paid-in surplus in an amount satisfactory to the commissioner. The minimum capital and surplus may be used for the reserves required by law and for other purposes as may be permitted by the board of directors, provided that the par value or stated value of the stock subscribed shall be

maintained as the permanent capital of the association, as required by Sections 5604 and 5605.

5603. In the case of a stock association, prior to issuance of a certificate of authority, the association shall file with the commissioner a statement in a form and with supporting data and proof that the commissioner may require, that verifies that the entire capital and paid-in surplus has been unconditionally paid in, that these funds are on deposit with the depository financial institution, and that all conditions contained in the notice of conditional approval of the petition for a certificate of authority have been met.

5604. (a) In the case of a stock association, on or after the date the commissioner issues the association a certificate of authority, the association shall issue the capital stock necessary to satisfy the minimum capital requirements of Section 5601 and any additional capital stock approved for issuance by its board of directors, up to the amount authorized in its articles of incorporation, and shall issue no additional shares except as authorized in this division.

(b) The capital stock of an association, when issued, shall constitute permanent capital and shall not be retired or withdrawn except as provided in this division until all liabilities of the association have been satisfied in full, including the withdrawal value of all savings accounts, and until outstanding capital certificates have been retired.

5605. (a) Any association that does not commence business within one year after the date of the issuance of its certificate of approval of articles of incorporation shall forfeit its certificate of approval of articles of incorporation, unless the commissioner, before the expiration of the one year period, shall have approved the extension of time within which it may commence business, upon a written application stating the reasons for delay. Upon forfeiture, the association's certificate of approval of articles of incorporation shall expire and shall be returned to the commissioner for cancellation. Amounts credited on savings accounts or paid in on capital stock, less expenditures authorized by the commissioner, shall be returned on a pro rata basis to their respective holders.

(b) The commissioner shall immediately notify the Secretary of State of forfeiture under this section.

Article 4. Issuance of Stock and Certificates

5620. (a) A stock association may issue shares of common stock and preferred stock, with or without par value, and common and preferred stock may be divided into classes and the classes into series.

(b) Stock associations which have withdrawable shares outstanding as of the effective date of this section may continue to issue savings accounts in that form and the holders of these accounts shall have the same rights as they had before this section became law.

5621. With the approval of the commissioner, a mutual association may amend its articles of incorporation to authorize the

issuance of stock and may issue stock. Any amendment to the articles of incorporation and bylaws of an association which for the first time authorizes it to issue stock must be approved by the vote or written assent of a majority of the total votes of members outstanding. An amendment to the articles of incorporation of an association pursuant to this section may include provisions with respect to the surplus, reserves, and undivided profits of such association and in such case the surplus, reserves, and undivided profits shall be retained and disposed of in accordance with such provisions.

5622. Capital stock of a stock association shall be issued pursuant to the following requirements:

(a) Except for stock issued pursuant to a stock dividend, stock split, reverse stock split, reclassification of outstanding stock into stock of another class, exchange of outstanding stock for stock of another class or other change affecting outstanding stock or an employee stock option plan or a plan of merger, consolidation, conversion from a mutual to a stock association, or other type of reorganization that has been approved by the commissioner, the consideration for the issuance of capital stock shall be money paid, debts or securities canceled or tangible or intangible property actually received either by the association or by a wholly owned subsidiary. The par value or stated value of stock shall be maintained as the permanent capital of the association and any additional amount paid in shall be credited to paid-in surplus.

(b) The aggregate par value or stated value of all outstanding shares of capital stock shall be the permanent capital of the association and except as otherwise specifically provided by this division, capital stock shall not be retired until final liquidation of the association.

(c) No association shall reduce the par or stated value of its outstanding capital stock without first obtaining the written approval of the commissioner, and approval shall be withheld if the reduction would cause the par or stated value of outstanding capital stock to be less than the minimum required by this division or would result in less than adequate statutory net worth as the commissioner may determine under Section 6475.

(d) No association shall retire any part of its capital stock unless the retirement is approved by the commissioner.

(e) With the written approval of the commissioner, an association may purchase its capital stock or may contract with a stockholder for purchase of stock upon the stockholder's death. However, the purchase shall not reduce the net worth accounts of the association, or any of them, to an amount less than required by applicable law. An association which agrees with a stockholder to purchase that stockholder's capital stock upon death may purchase insurance upon the life of the stockholder to fund or partially fund the purchase.

5623. A mutual association may issue mutual capital certificates in accordance with regulations of the commissioner.

5624. An association may issue net worth certificates in

accordance with regulations of the Federal Savings and Loan Insurance Corporation.

Article 5. Association Name, Office

5650 Notwithstanding the provisions of Section 201 of the Corporations Code and Division 1 of the Financial Code, the name of every association shall include either the words "savings association," "savings and loan association," "savings bank" or such other designation as the commissioner may approve. These words shall be preceded by an appropriate descriptive word or words approved by the commissioner.

5651. (a) No certificate of approval of articles of incorporation of a proposed association having the same name as an association in existence in this state on the date an application is filed under Section 5401, or a name so nearly resembling it as to be likely to deceive, shall be issued by the commissioner, except to an association formed by the reincorporation, reorganization, or consolidation of the association with other associations, or upon the sale of the property or franchise of an association. The commissioner may presume that the use of any word or words already adopted, appropriated, or used in its corporate name by any association then existing in this state, except the words "the," "and," "mutual," "guarantee," "building," "loan," "savings," "association," or "bank," constitutes such similarity of names as to be likely to mislead the public.

(b) An association shall not adopt or change to a name that will result in unfair competition or public confusion, or be deceptive, scandalous, or otherwise unsuitable.

5652. Except as otherwise authorized under existing law, no person, unless lawfully authorized to do business in this state under the provisions of this division and who is actually engaged in carrying on a savings association business, shall:

(a) Do business under any name or title that contains the following terms:

(1) "Savings association"

(2) "Savings bank."

(3) "Savings and loan association."

(4) "Building and loan association."

(5) "Building association."

(6) Any combination employing either or both of the words "building," or "loan," with one or more of the words "saving," "savings," or words of similar import.

(7) Any combination employing one or more of the words "saving," "savings," or words of similar import with one or more of the words "association," "bank," "institution," "society," "company," "fund," "corporation," or words of similar import.

Notwithstanding the provisions of this subdivision, use of the term "savings bank" in a name or title is not prohibited to any person regulated by the provisions of Division 1 (commencing with Section

99) or under procedures and regulations promulgated by the Comptroller of the Currency, Federal Reserve Board, Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation, or Federal Deposit Insurance Corporation. Any reference to the term "savings bank" in this division is not intended to apply to any person other than persons authorized to do business in this state under this division.

(b) Use any name or sign or circulate or use any letterhead, billhead, circular or paper whatever, or advertise or represent in any manner that indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an association or is likely to lead any person to believe that the business is that of an association.

5653. Upon application by the commissioner or any association, a court of competent jurisdiction may issue an injunction to restrain any person from violating or continuing to violate any of the provisions of Section 5652. Any person who violates any provision of Section 5652 shall be punished by a fine of not more than five thousand dollars ($5,000), and each day of violation shall constitute a separate offense. The prohibitions of Section 5652 shall not apply to any corporation or association formed for the purpose of promoting the interests of thrift institutions, the membership of which is comprised of thrift institutions, their officers, or other representatives.

5654. (a) Without the prior approval of the commissioner, as provided in this division, no association shall do any of the following:

(1) Establish or maintain any office, other than its home office, which shall be in the location named in the certificate of authority.

(2) Change the location or designation of any office from its approved location or designation.

(3) Change its corporate name by amendment of its articles of incorporation and its certificate of authority. A change of name is subject to the same criteria as set out in Sections 5650 and 5651.

(4) Amend its articles of incorporation.

(b) Applications for approval under this section shall be accompanied by any filing fee prescribed by the commissioner pursuant to Section 9001.

(c) A public hearing may be held on applications filed under this section in accordance with procedures prescribed by law or by regulations adopted by the commissioner.

(d) No certificate of amendment or other certificate to amend the articles of incorporation of an association shall be filed in the office of the Secretary of State unless there is attached thereto the certificate of the commissioner approving the same.

Article 6. Conversions

5700. A state association may convert itself into a federal association by following the procedure outlined in Sections 5701

through 5708.

5701. At any regular or special meeting called to consider the conversion of an association into a federal association, in the case of a stock association, the stockholders entitled to vote and any members entitled to vote, by an affirmative majority of the votes cast in person or by proxy; and in the case of a mutual association the members, by action on a proposal approved by the members, may resolve to convert the association into a federal association.

5702. Any executor, administrator, guardian, conservator of a natural person or receiver, and any fiduciary or trustee, and any public corporation, political subdivision, public instrumentality, charitable institution, educational and eleemosynary institution, trust company or financial institution, and any insurance company or cemetery association may, without obtaining court approval:

(a) Vote in person or by proxy in favor of or against converting a state association into a federal association, or may approve or disapprove the determination to so convert.

(b) Exchange any stock, savings accounts, or other rights or claims, for securities issued by the federal association, and hold the securities as legal investments.

5703. Promptly after the meeting approving a conversion into a federal association, the association shall file in the office of the commissioner a certificate verified by the president or vice president and the secretary or assistant secretary of the association The certificate shall contain a copy of the minutes of the meeting and a statement of the number of stockholders and members entitled to vote and the number voting to approve the determination to convert the association into a federal association. A like certificate shall be filed in the office of the Secretary of State.

5704. A certified copy of the certificate required by Section 5703 filed in the office of the Secretary of State is presumptive evidence of the holding of the meeting, the action taken at the meeting, and of the approval of stockholders and members.

5705. After the meeting of the stockholders and members, the association shall take any action necessary to make it a federal association, and promptly after receipt of the federal charter the association shall file in the office of the commissioner and in the office of the Secretary of State, a copy of the charter issued to it by the Federal Home Loan Bank Board or a certificate showing the organization of the association as a federal association certified by or on behalf of the Federal Home Loan Bank Board. Upon the filing of this instrument in the office of the Secretary of State the association ceases to be a state association and is a federal association.

5706. At the time the conversion into a federal association becomes effective the association ceases to be supervised by this state and all of the property of the association, including all of its right, title, and interest in and to all property of every kind and character immediately, by operation of law and without any conveyance, or transfer and without any further act or deed, is vested in the

association under its new name and style as a federal association and under its new jurisdiction.

5707. The converted federal association shall have, hold, and enjoy the property mentioned in Section 5706 in its own right as fully and to the same extent as the property was possessed, held, and enjoyed by it as a state association and the federal association shall continue to be responsible for all of the obligations of the converted state association to the same extent as though the conversion had not taken place. The federal association is merely a continuation of the state association under a new name and new jurisdiction and the revision of its corporate structure as is considered necessary for its proper operation under the new jurisdiction.

5708. Where a copy of a charter of a federal association, issued by the Federal Home Loan Bank Board pursuant to the laws of the United States was filed with the Secretary of State prior to September 13, 1941, with the intent of converting a building and loan association organized and existing under the laws of this state into a federal association, those conversions are validated, legalized, ratified and confirmed.

5709. Any federal association may convert itself into an association by following the procedure set forth in Sections 5710 through 5719.

5710. At any regular or special meeting called to consider the action, the stockholders and members entitled to vote by an affirmative majority of the votes cast in person or by proxy, may resolve to convert a federal association into an association.

5711. Copies of the minutes of the proceedings of the meeting of the stockholders or members in which they vote to convert into an association, verified by the president or vice president and the secretary or an assistant secretary, shall be filed promptly after the meeting in the office of the commissioner, and, in duplicate, with the federal home loan bank of which the association is a member.

5712. The verified copies of the minutes of the meeting, when filed as required by Section 5711, are presumptive evidence of the holding and action of the meeting.

5713. After a meeting as provided for in Section 5710, the federal association shall take or cause to be taken such action as shall make it an association in the manner prescribed and authorized by this division. The directors elected at the meeting shall file the documents and take such proceedings as are required by this division in the case of the original incorporation of an association. No association incorporated by conversion from a federal association is required to comply with any of the provisions of law or any regulations promulgated by the commissioner relating to the minimum amounts of capital required to be subscribed in connection with the original incorporation of an association under this division.

5714. The directors of an association converted from a federal association may insert in the articles of incorporation the following statement: "This association is incorporated by conversion from a

federal savings and loan association."

5715. Promptly after the filing of the articles of incorporation with the Secretary of State, there shall be filed with the federal home loan bank of which the association is a member, two copies of the articles of incorporation, certified by the Secretary of State.

5716. Upon the filing of the articles of incorporation with the Secretary of State, the federal association ceases to be a federal association and is an association under the laws of this state. All of the property of the federal association, including all of its right, title, and interest in and to all property of every kind and character immediately, by operation of law and without any conveyance or transfer, and without any further act or deed, is vested in the association under its new name and style as an association and under its new jurisdiction.

5717. The converted association shall have, hold, and enjoy the property mentioned in Section 5716 in its own right as fully and to the same extent as the property was possessed, held and enjoyed by it as a federal association and the converted association continues responsible for all of the obligations of the converted federal association to the same extent as though conversion had not taken place. The association is merely a continuation of the federal association under a new name and new jurisdiction and such revision of its corporate structure as is considered necessary for its proper operation under the new jurisdiction.

5718. In the event stock is to be issued by the converted association, the commissioner may issue an organizing permit to the federal association or to the board of directors elected to serve after conversion, authorizing the association or the board of directors to take subscriptions to stock, to collect subscription payments and to impound the payments pending the issuance of stock, and authorizing the converted association to issue stock after the filing of its articles of incorporation with the Secretary of State. The commissioner may require that all stock to be initially issued be subscribed and fully paid. The commissioner may also issue a certificate of authority to the converted association to be effective upon filing of its articles of incorporation, and may also issue any other orders and permits necessary to authorize the association to continue business without interruption upon the filing of its articles of incorporation.

Article 7. Power to Reorganize, Merge, Consolidate, or Transfer Assets

5750. (a) Pursuant to a plan or agreement (referred to as "agreement" in this article) adopted by the board of directors and approved by the commissioner as fair, just and equitable, and as adequately protecting the interests of the association, its members, or stockholders, its savings account holders and the public, an association shall have the power to reorganize or to merge or

consolidate with or transfer all or substantially all its assets to another association or federal association, provided that the principal terms of the plan of the reorganization, merger, consolidation, or transfer shall, in the case of a stock association, be approved at an annual meeting or at any special meeting, or by the written consent of the stockholders voting on the action, by not less than a majority of the total number of votes eligible to be cast. In the case of a mutual association, if required by the commissioner, the principal terms of such a plan shall be approved by members representing not less than a majority of the voting power.

(b) In all cases the survivor association shall succeed to all the rights, obligations, and relations of the constituent associations.

(c) As a step in a plan of the reorganization, merger, consolidation, or transfer under this section, an association or its stockholders or members may organize an interim institution. As used in this section, "interim institution" means an association formed to facilitate the acquisition of 100 percent of the voting stock of an existing association or other insured stock institution by or for a newly formed company or an existing savings and loan holding company or to facilitate any other transaction the commissioner may approve.

5751. At the sole discretion of the commissioner a public hearing may be held on applications filed under this article, in accordance with procedures established by the commissioner by regulation.

5752. Applications filed under this article shall be accompanied by any applicable filing fee prescribed by the commissioner pursuant to Section 9001.

5753 The provisions of Chapter 13 (commencing with Section 1300) of Division 1 of Title 1 of the Corporations Code shall apply only to stockholders and shares of stock owned by them in the association being merged, or where assets are being transferred into a surviving association, or where a merger or transfer is approved under the provisions of this article by written consent of the stockholders

5754. In a merger the agreement shall state any matters with respect to which the articles of the surviving association are deemed amended and the articles shall be amended accordingly, without any further proceedings, upon the effective date of the merger, but with respect to any amendments, the agreement shall meet the requirements of Section 907 of the Corporations Code in identifying any provisions to be amended, stricken, or added and shall set forth in full the wording of the provision as amended or added or the wording of the amended articles if they be amended in full.

5755. When a merger or consolidation agreement has been approved by the directors and the stockholders or members of an association, the association shall mail notice of the approval to each of its stockholders or members at least 10 days before filing the certificate as provided in this section unless the consents of all stockholders or members entitled to vote have been solicited and

received in writing.

After approval by the directors and stockholders or members has been given, the association shall prepare and submit to the commissioner for written approval a certificate in the form of an officers' certificate (Section 173 of the Corporations Code) which shall set forth the following:

(a) An identification of the agreement of merger or consolidation by reference to names of parties and date.

(b) That the agreement was approved by the board of directors of the association.

(c) The total number of outstanding shares of each class of guarantee stock entitled to vote, or in the case of a mutual association the total value of accounts outstanding.

(d) That the principal terms of the agreement were approved by the vote or written consent of a number of shares of each class of guarantee stock which equaled or exceeded the vote required, or in the case of a mutual association that approval by the members was not required by the commissioner or that the principal terms of the agreement were approved by the vote or written consent of members holding a total value of accounts which equaled or exceeded the vote required.

(e) The percentage vote required of each class.

(f) That the agreement for merger or consolidation submitted to the commissioner for written approval and for filing with the Secretary of State concurrently with this certificate is the agreement hereinabove referred.

(g) Any additional matters that the commissioner may require.

5756. Any amendment to a merger or consolidation agreement may be adopted, and the agreement so amended may be approved at the meeting of the stockholders or members of any of the associations or by written consent of the stockholders or members, in the same manner and by the same vote as the original agreement. If the agreement so amended is approved at a meeting or by written consent by the stockholders or members and by the board of directors of each of the associations by the vote or written consent required for approval of the original agreement, the agreement so amended shall be signed and acknowledged and shall have certified therewith the approval of the directors and of the stockholders or members in the same manner as provided for in the original agreement, and shall then constitute the merging or consolidating agreement.

5757. Notwithstanding any other provision of law, the approval of transactions under this article shall not be required by any borrowers or by holders of savings accounts in associations that issue stock.

5758. The executed agreement, or an executed counterpart of it and the respective certificate of each constituent association and of the surviving association shall be separately filed with the Secretary of State. Neither the agreement nor any certificate shall be filed, however, unless the commissioner's written approval is attached and

until there has been filed with the Secretary of State, by or on behalf of each association taxed under the provisions of Chapter 2 (commencing with Section 23101) of Part 11 of Division 2 of the Revenue and Taxation Code, the existence of which is terminated by the merger or consolidation, the certificate of satisfaction of the Franchise Tax Board that all taxes imposed by the act have been paid or secured A copy of the approved agreement certified by the Secretary of State shall be filed with the commissioner. The effective date of the merger or consolidation under this article shall be the date of the filing with the commissioner of the copy of the approved agreement of merger or consolidation certified by the Secretary of State. The commissioner shall promptly notify the Secretary of State of the date of filing of these documents.

5759. An association may acquire all or at least 90 percent of the issued and outstanding stock of another association, or any other corporation, with the prior written approval of the commissioner upon conditions that the commissioner may impose as a step in a plan of merger to be approved by the commissioner. The acquisition of stock shall be upon terms as may be approved by the board of directors of the acquiring association and ratified by the vote or written consent of a majority of the stockholders of the acquiring association.

5760. (a) Any association, owning all the outstanding stock of any corporation, may merge its wholly owned subsidiary corporation if the laws under which the subsidiary corporation exists permit a merger as this section provides. The association shall submit to the commissioner for approval a certificate of ownership in its name signed by its president or a vice president, and its secretary or an assistant secretary, which shall be verified by their affidavit, stating, in effect, that the matters set forth in the certificate are true of their own knowledge. The certificate shall set forth:

(1) That it owns all the outstanding stock of the merged corporation.

(2) A copy of the resolution adopted by its board of directors to merge the corporation, and to assume all of its obligations.

(3) The time and place of the meeting of the board of directors at which the resolution was adopted, and the vote by which it was adopted.

(b) If an association owns less than all the outstanding stock but at least 90 percent of the outstanding shares of stock of each class of a corporation or corporations, domestic or foreign, the merger of the subsidiary corporation or corporations into the parent association may be effected by resolutions adopted by the boards of the parent and each subsidiary corporation, and the filing of a certificate of ownership as provided in subdivision (d). The resolution of the board of the parent association shall provide for the merger, shall provide that the parent association assumes all the liabilities of each subsidiary corporation and shall set forth the securities, cash property or rights to be issued, paid, delivered or granted by the

parent association upon surrender of each share of stock of each subsidiary corporation not owned by the parent association The resolution of the board of each subsidiary corporation shall approve the fairness of the consideration to be received for each share of stock of the subsidiary corporation not owned by the parent association.

(c) Notwithstanding any other provision of law, in any merger pursuant to this section, the parent association may change its name regardless of whether the name so adopted is the same or similar to that of one of the disappearing associations. In this case the resolution shall provide for the amendment of articles to change the name.

(d) After adoption of the resolution or resolutions of merger, as provided under subdivision (b), the association shall submit to the commissioner for approval a certificate of ownership in its name signed by its president or a vice president, and its secretary or an assistant secretary, which shall be verified by their affidavit, stating, in effect, that the matters set forth in the certificate are true of their own knowledge. The certificate shall set forth:

(1) That the association owns at least 90 percent of the outstanding stock of the merged corporations

(2) A copy of the resolution adopted by the association's board of directors to merge the corporation, to assume all of its obligations, and including the resolution for a change of name if applicable.

(3) A copy of the resolution or resolutions adopted by the board of each subsidiary corporation, if required.

(4) The time and place of the meeting of the boards of directors of the parent and the subsidiary at which the resolutions were adopted, and the vote by which they were adopted

(e) In the event all of the outstanding shares of stock of a subsidiary domestic corporation party to a merger effected under this section are not owned by the parent association immediately prior to the merger, the parent association shall, at least 20 days before the effective date of the merger, give notice to each stockholder of the subsidiary corporation that the merger will become effective on or after a specific date, which notice shall contain (1) a copy of the resolutions of the boards of directors of the parent and the subsidiary required by subdivision (b) above and (2) the information which must accompany the notice required by subdivision (a) of Section 1301 of the Corporations Code. The notice shall be sent by mail addressed to the stockholder at the address of the stockholder as it appears on the records of the corporation The stockholder shall have the right to demand payment of cash for the shares of stock of the stockholder pursuant to the provisions of Chapter 13 (commencing with Section 1300) of Division 1 of Title 1 of the Corporations Code.

(f) If a merger authorized by this section is approved, the commissioner shall attach to the certificate written approval, and the certificate shall be filed with the Secretary of State. A copy of the approved certificate certified by the Secretary of State shall be filed with the commissioner. Thereupon, all of the estate, property, rights,

privileges, and franchises of the merged corporation shall vest in and be held and enjoyed by the parent association as fully as the same were before held and enjoyed by the merged corporation, but subject to all the liabilities and obligations of the merged corporation and the rights of all creditors. The parent association shall not, however, thereby acquire the right to engage in any business or to exercise any right, privilege, or franchise of a kind which it could not lawfully engage in or exercise under the provisions of this division. The parent association shall be deemed to have assumed all the liabilities and obligations of the merged corporation, and shall be liable in the same manner as if it had itself incurred the liabilities and obligations.

(g) If the merged subsidiary is a domestic corporation, a copy of the certificate shall be filed in the office of the Secretary of State on behalf of the subsidiary corporation. If the merged subsidiary is a foreign corporation qualified for the transaction of intrastate business in this state there shall be filed in the office of the Secretary of State on behalf of the foreign subsidiary a certificate of surrender and right to transact intrastate business as provided in Section 2112 of the Corporations Code. No copy of the certificate shall be filed unless there is also filed with the Secretary of State the certificate of satisfaction of the Franchise Tax Board that all taxes imposed upon the subsidiary corporation by the Bank and Corporation Tax Law, Part 11 (commencing with Section 23001) of Division 2 of the Revenue and Taxation Code, have been paid or secured.

5761. The directors of an association may, in their discretion, abandon a transaction under this article, subject to the rights of third parties under any contracts relating thereto, without further action or approval by the stockholders or members of the association, at any time before the transaction has been completed.

5762. The commissioner may adopt rules and regulations relating to any transaction regulated by this article.

Article 8. Holding Companies and Stock Acquisitions

5800. For the purposes of this article the following words and phrases shall have the following meanings:

(a) "Savings and loan holding company" means any person that either, directly or indirectly, or acting in concert with one or more other persons:

(1) Owns, controls, or holds with power to vote, or holds proxies to vote:

(A) Where the association or savings and loan holding company has fewer than 500 stockholders or members, 25 percent or more of the outstanding voting capital stock of any capital stock association or savings and loan holding company or 25 percent or more of the total number of votes or proxies of votes eligible to be cast by the members of any mutual association located in this state.

(B) Where the association or savings and loan holding company

has at least 500 stockholders or members, 10 percent or more of the outstanding voting capital stock of any capital stock association or savings and loan holding company or 10 percent or more of the total number of votes or proxies of votes eligible to be cast by the members of any mutual association located in this state.

(2) Controls in any manner, whether by the holding of proxies or otherwise, the election of a majority of the directors of any association or savings and loan holding company located in this state.

(b) "Subsidiary" of a person means any person, except an individual that is directly or indirectly owned, controlled, or otherwise held by that person to the extent or in the manner described in the preceding subdivision.

(c) "Completed application" means an application to become a savings and loan holding company, as filed with the commissioner, together with any amendments by the applicant and any additional information requested in writing by the commissioner. If the additional information is not received within 30 days of the date of the request, the commissioner may consider the application complete upon written notice to the applicant.

5801. No person may become a savings and loan holding company unless the commissioner approves a completed application. The commissioner shall issue a decision on a completed application within 60 days of its filing. The application shall be in a form prescribed by the commissioner, contain the following information and any additional information that the commissioner may determine by regulation to be necessary or appropriate to preserve the public interest, the integrity of the state's savings association system, and to protect the interests of savings account holders, borrowers, and stockholders resident in this state:

(a) The identity, experience, and financial and managerial resources of each acquiring person by whom or on whose behalf the application is made.

(b) The terms, conditions, and method of any proposed acquisition, including copies of all tender offers used or to be used in connection with any proposed acquisition of capital stock.

(c) The source, kind, and amount of the consideration used or to be used in making the acquisition, and, if any part of the consideration has been or is to be borrowed or otherwise obtained for the purpose of making the acquisition, a description of the transaction and the names of all participating persons.

(d) Any plans or proposals that any acquiring person may have to liquidate or convert the association or savings and loan holding company, to sell its assets or merge it with any company, to change the number of its employees in this state or the terms and conditions of their employment, or to make any other substantial change in its business, corporate structure, management or employees upon becoming a holding company.

(e) The names of those officers and directors that the acquiring person proposes to install in any change of managements, and for

each of those officers and directors a financial statement, a description of experience in savings association related matters, and a statement as to whether the officer or director ever has been found guilty of misrepresentation, fraud, or financial misdealings.

5802. The commissioner shall within 60 days after the date of filing of a completed application approve the application with any conditions reasonably necessary or advisable in the public interest, or deny the application upon a finding of any of the following:

(a) The acquisition, under any federal or state law, would substantially lessen competition or would in any manner be in restraint of trade or would result in a monopoly, or would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings association business in any part of the state unless the commissioner also finds that the anticompetitive effects of the proposed acquisition clearly are outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community that the association serves.

(b) The financial condition of any acquiring person might jeopardize the financial stability of the association or the savings and loan holding company sought to be acquired or might prejudice the interest of the savings account holders, borrowers, or stockholders of the association or is not in the public interest.

(c) The plan or proposal under which the acquiring person intends to liquidate the savings association or the savings and loan holding company, to sell its assets or to merge it with any person or association, or to make any other major change in its business or corporate structure or management, is not fair and reasonable to the association, its savings account holders, borrowers, or resident stockholders, or would tend to impair the integrity of the state's savings association system, or is not in the public interest.

(d) The competence, experience, integrity, or resources of any acquiring person does not indicate that approval would be in the interest of the association, its savings account holders, borrowers, or resident stockholders or of the community that the association serves.

(e) The requirements of this article have not been met.

(f) The acquisition would violate state or federal law or the commissioner determines that approval is not in the public interest.

5803. After the decision under this article by the commissioner either approving or denying the application, upon the filing with the commissioner within 30 days after the date of the decision of a written request for a hearing by any person aggrieved by the decision, the commissioner shall hold a public hearing on the merits of the request, after which the decision shall be affirmed, modified, or reversed.

5804. Within 60 days after becoming a savings and loan holding company or the effective date of this division, whichever is later, or a later date if extended by the commissioner, each savings and loan

holding company that has not registered under prior law shall register with the commissioner in a prescribed form which shall require information with respect to the financial condition, ownership, operations, management, and intercompany relationships of the savings and loan holding company and its subsidiaries, and related matters as the commissioner may deem necessary or appropriate.

5805 Accompanying the registration, each savings and loan holding company shall file with the commissioner an irrevocable appointment of the Secretary of State as an agent for service of process upon the registrant.

5806. Each savings and loan holding company shall pay an initial and an annual registration fee of five hundred dollars ($500) if the registrant's association subsidiaries have total assets of up to one hundred million dollars ($100,000,000) or one thousand dollars ($1,000) if the subsidiaries have total assets of one hundred million dollars ($100,000,000) or more.

5807. When a savings and loan holding company has satisfied the requirements of this article, the commissioner shall issue the holding company a certificate of registration, and shall send a copy to each association subsidiary in this state with respect to which the holding company has registered.

5808. No association that is a subsidiary in this state of any savings and loan holding company that does not have in effect a certificate of registration as required by this article or whose holding company has failed to comply with an order of a court made in respect to the provisions of this article, shall knowingly, without consent of the commissioner, do any of the following:

(a) Transfer or register stock or other securities on its books for or issue certificates to its holding company.

(b) Pay dividends on stock of which its holding company is the record or beneficial owner.

(c) Make any other payments of any nature to its holding company.

(d) Enter into any agreement, contract, or transaction with its holding company.

5809. (a) The commissioner from time to time may require reports from any savings and loan holding company and its subsidiaries in a format deemed necessary or appropriate and relevant to the jurisdiction and responsibilities of the commissioner under this division. Any savings and loan holding company and its subsidiaries shall file reports and be subject to examination as required by the commissioner in the manner provided for associations in Article 3 (commencing with Section 8150) of Chapter 7.

(b) The cost of any examination may be assessed against each savings and loan holding company examined and the assessment shall be paid to the department.

5810. (a) The commissioner shall have the enforcement powers

with respect to savings and loan holding companies and their subsidiaries that are provided with respect to associations in Section 8200.

(b) Any person that willfully violates any provision of this article or any implementing regulation or order issued by the commissioner, shall pay as a penalty a sum not to exceed one thousand dollars ($1,000) for each day during which the violation continues. This fine shall be in addition to any other applicable penalties or remedies provided in this division.

5811. This article shall not apply to an acquisition of stock made pursuant to a plan or agreement of reorganization, merger, consolidation, or transfer of assets under Section 5750.

Article 9. Dissolution

5850. (a) An association may dissolve pursuant to the General Corporation Law (Division 1 (commencing with Section 100) of Title 1 of the Corporations Code).

(b) In the case of a mutual association, the required vote of members to elect voluntarily to wind up and dissolve shall be by members representing 50 percent or more of the voting power required to elect directors of the association.

(c) No certificate of election to dissolve or certificate of dissolution of an association shall be filed with the Secretary of State unless there is attached thereto the certificate of the commissioner approving the same.

CHAPTER 3. CORPORATE ADMINISTRATION

Article 1. Meetings of Members of Mutual Associations

6000. An annual meeting of the members of each mutual association shall be held at a time and place fixed in the bylaws of the association

6001. Special meetings of the members of a mutual association may be called at any time by the president or the board of directors, and shall be called by the president, a vice president, or the secretary upon the written request of members holding of record in the aggregate at least 10 percent of the outstanding savings deposits of the association. Such written request shall state the purposes of the meeting and shall be delivered at the principal office of the association addressed to the president.

6002. Notice of each annual and special meeting shall be either published once a week for the two successive calendar weeks (in each instance on any day of the week) immediately prior to the week in which such annual meeting shall convene, in a newspaper printed in the English language and of general circulation in the city or county in which the principal office of the association is located, or mailed postage prepaid at least 15 days and not more than 45 days

prior to the date on which such annual meeting shall convene to each of its members of record at his last address appearing on the books of the association. Such notice shall state the name of the association, the place of the annual meeting, the time when it shall convene and, in the case of a special meeting, the purpose or purposes for which the meeting is called. A similar notice shall be posted in a conspicuous place in each of the offices of the association during the 14 days immediately preceding the date on which such annual meeting shall convene. Notice need not be given to any member who in person or by proxy, in writing, waives notice of such annual meeting.

6003. In the consideration of all questions requiring action by the members of a mutual association, each member shall be entitled to cast one vote for each one hundred dollars ($100), or fraction thereof, of the withdrawal value of his or her savings account or accounts.

6004. (a) In order that the association may determine the members entitled to notice of any meeting or to vote or entitled to receive any distribution or entitled to exercise any rights in respect of any other lawful action, the board of directors of the association may fix, in advance, a record date, which shall not be more than 60 or less than 10 days prior to the date of such meeting or more than 60 days prior to any other action, provided, however, that if the provisions hereof conflict with the provisions of any federal statute or regulation relating to fixing of record dates for associations, the provisions of the federal statute or regulation shall prevail.

(b) If no record date is fixed pursuant to subdivision (a) above:

(1) The record date for determining members entitled to notice of or to vote at a meeting of members shall be at the close of business on the business day next preceding the day on which notice is given or first published, or if notice is waived, at the close of business on the business day next preceding the date on which the meeting is held.

(2) The record date for determining members entitled to give consent to action in writing without a meeting, when no prior action by the board of directors has been taken, shall be the date on which the first written consent is given.

(3) The record for determining members for any other purpose shall be at the close of business on the day on which the board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later.

(c) A determination of members of record entitled to notice of or to vote at a meeting of members shall apply to any adjournment of the meeting unless the board fixes a new record date for the adjourned meeting.

6005. At any meeting of the members, voting may be in person or by proxy, provided that no proxy is eligible to be voted at any meeting unless it has been filed with the secretary of the association, for verification, prior to the meeting. Each proxy shall be in writing and when filed with the secretary, shall, unless otherwise specified

in the proxy, continue in force from year to year until revoked by a writing delivered to the secretary or by a subsequent proxy executed by the member executing the prior proxy or as to any meeting by attendance at such meeting and voting in person by the person executing the proxy. A proxy is not revoked by the death or incapacity of the maker unless, before the vote is counted, written notice of such death or incapacity is received by the association. Section 604 of the Corporations Code does not apply to any mutual association.

6006. Any number of members present at a regular or special meeting of the members shall constitute a quorum. A majority of all votes cast at any meeting of members shall determine any question unless this division specifically provides otherwise.

Article 2. Access to Books and Records; Communication with Stockholders or Members; Derivative Actions

6050. (a) The register of stockholders or members, the books of account and the minutes of an association shall be subject to inspection upon the written demand of any stockholder or member, but only with the prior approval of the commissioner, after notice to the association. Approval shall not be given unless the commissioner determines that the inspection is not contrary to the best interests of the association and its stockholders or members. Unless the written demand under this subdivision is approved, the commissioner shall hold a hearing to determine whether the demand should be approved. The hearing shall be held within 20 days of mailing a written notice to the association.

(b) Each association director shall have the right at any reasonable time to inspect all books, records, documents of every kind, and the physical properties of that association. The inspection may be made in person or by agent or attorney, and the right of inspection includes the right to make extracts. In the case of foreign associations the right of inspection extends only to books, records, documents and property located in this state.

(c) Savings account holders who are neither stockholders, members or directors of an association shall have no right of inspection under this section.

6051. (a) If any member, members, stockholder or stockholders desire to communicate with other members or stockholders of an association about any question pending or to be presented for consideration at a meeting of the members or stockholders, the association shall furnish upon request a statement of the approximate number of members or stockholders of the association at the time of the request, and an estimate of the cost of forwarding the communication. The requesting member, members, stockholder or stockholders shall then submit the communication, together with a sworn statement that the proposed communication is not for any reason other than the business welfare of the association, to the

commissioner. If after examination of the facts the commissioner finds it to be appropriate, truthful, and in the best interests of the association and the association's members or stockholders, the commissioner shall execute a certificate setting out the facts and findings and shall forward the certificate together with the communication to the association and direct that the communication be prepared and mailed by the association to the members or stockholders upon the payment to it by those making the request of the expenses of preparation and mailing.

(b) If the commissioner finds the proposed communication to be inappropriate, untruthful, or contrary to the best interests of the association and its members or stockholders, the commissioner may deny or make other disposition of the request to communicate deemed proper and shall execute a certificate setting out facts and findings and deliver it to the party or parties making the request together with an order denying or making other disposition of the request.

6052. (a) No action may be instituted or maintained in the right of any association by any savings account holder who is not a stockholder or member of the association.

(b) An action may be instituted or maintained in the right of an association by a stockholder or member of that association only if all the following conditions exist:

(1) The plaintiff alleges in the complaint that the plaintiff was a registered stockholder or member at the time of the transaction or any part of it, or that the stock or membership devolved upon the plaintiff by operation of law from a holder who was a holder at the time of the transaction or any part of it.

(2) The plaintiff alleges in the complaint with particularity the efforts of the plaintiff to secure from the board of directors the desired action and alleges further that the plaintiff has either informed the association or its board of directors in writing of the ultimate facts of each cause of action against each defendant director or delivered to the association or its board of directors a true copy of the complaint which plaintiff proposes to file, and the reasons for the plaintiff's failure to obtain the desired action or the reasons for not making an effort to secure the desired action from the association.

(3) The commissioner has determined, after a hearing upon at least 20 days' written notice to the association and each of its directors, that the action is proposed in good faith and that there is a reasonable probability that the prosecution of the action will benefit the association and its stockholders or members.

(c) Subdivisions (c), (d), (e), and (f) of Section 800 of the Corporations Code apply to any actions under this section.

Article 3. Financial Statement Publication

6100. Each association shall prepare and publish annually within the time prescribed by the commissioner in a newspaper of general circulation in the county in which its home office is located, and shall deliver to each member or stockholder upon request, a statement of its financial condition in the form prescribed or approved by the commissioner.

Article 4. Directors

6150. The business of each association shall be directed by a board of directors elected by ballot by a plurality of the votes of the members or stockholders present or voting by proxy.

6151. No person shall be eligible for election or shall serve as a director or officer of an association who has been convicted of a criminal offense involving dishonesty or a breach of trust.

6152. A director shall automatically cease to be a director upon being adjudicated a bankrupt or upon conviction of a criminal offense involving dishonesty or a breach of trust.

6153. Directors shall be elected for periods of three years and until their successors are elected and qualified, but provision shall be made for the election of approximately one-third of the board of directors each year.

6154. If the members or stockholders fail to elect a director to fill each vacancy created by an increase in the number of directors, the current directors may fill the vacancy by electing a director to serve until the next annual meeting of the members or stockholders at which time a director shall be elected to fill the vacancy for the unexpired term for the class of directors in which the vacancy exists.

6155. Whenever the number of directors is changed and vacancies caused by the change are filled, the directors so elected shall be elected to terms in accordance with the provisions of Section 6153.

6156. (a) Any vacancy among directors, not filled by the members or stockholders, may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting of the members or stockholders, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which the vacancy exists.

(b) In the event of a vacancy on the board of directors from any cause, the remaining directors shall have full power and authority to continue direction of the association until the vacancy is filled.

Article 5. Indemnity Bonds

6200. Except as provided in subdivision (b) of Section 6203, all directors, officers, and employees of an association shall, before

entering upon the performance of any of their duties, execute their individual bonds with adequate corporate surety payable to the association as an indemnity for any loss the association may sustain of money or other property by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, hold-up, wrongful or unlawful abstraction, misapplication, misplacement, destruction or misappropriation, or any other dishonest or criminal act or omission by the director, officer, or employee.

6201. Associations that employ collection agents, who for any reason are not covered by a bond required under Section 6200, shall provide for the bonding of each of those agents in an amount equal to at least twice the average monthly collection of the agent. The agents shall be required to make settlement with the association at least monthly.

6202. No indemnity bond coverage is required of any agent that is a financial institution insured by the Federal Deposit Insurance Corporation or by the Federal Savings and Loan Insurance Corporation.

6203. (a) The amounts and form of indemnity bonds and sufficiency of the surety shall be approved by the board of directors and by the commissioner.

(b) In lieu of individual bonds, a blanket bond, protecting the association from loss through any act or acts of any director, officer, employee or agent, may be obtained.

(c) A true copy of every indemnity bond shall be on file at all times at the association's home office.

6204. Indemnity bonds shall provide that their cancellation either by the surety or by the insured shall not become effective unless and until 10 days' notice in writing first shall have been given to the commissioner, unless the cancellation is approved earlier by the commissioner.

Article 6. Records

6450. Each association shall keep correct and complete books and records of accounts, as specified in Section 1500 of the Corporations Code.

6451. Each agency of an association, as defined in Section 6551, shall keep an original record of each transaction of business of the association. Records of transactions are not required to be maintained at the agency if they are maintained at the association's home office or branch office.

6452. Each association shall observe generally accepted accounting principles and practices except to the extent that the commissioner may require or permit different accounting treatment of accounts by regulation.

6453. Each association shall close its books at the close of business at least annually, or more often if authorized for all associations by

the commissioner.

6454. No association by any system of accounting or any device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of any other person, partnership, association, or corporation or under any title or designation that is not truly descriptive of the assets.

6455. (a) Each association shall maintain complete loan and investment records, and shall do so in a manner satisfactory to the commissioner. Detailed records necessary to make determinations of compliance by an association with the requirements of Chapter 6 (commencing with Section 7200) and other provisions of this division shall be maintained at all times.

(b) The record of each real estate loan or other secured loan or investment shall contain documentation satisfactory to the commissioner of the type, adequacy and characteristics of the security.

6456. Each mutual association shall maintain membership records which shall show the name and address of the member, the status of the member as a savings account holder, an obligor, or a savings account holder and obligor, and the date of membership. In the case of members holding a savings account the association shall obtain a savings account contract containing the signature of each holder of the account or duly authorized representative of the holder, and shall preserve the contract in the records of the association.

6457. Each capital stock association shall maintain a register of stockholders.

6460. (a) Any association may cause any or all records of the association to be copied or reproduced by any photostatic, photographic, or microfilming process that correctly and permanently copies, reproduces, or forms a medium for copying or reproducing the original record on a film or other durable material.

(b) Any copy or reproduction made under subdivision (a) shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence.

(c) A facsimile, exemplification, or certified copy of any copy made pursuant to subdivision (a), or a reproduction produced from a film record, shall, for all purposes, be deemed a facsimile, exemplification, or certified copy of the original record.

Article 7. Statutory Net Worth; Reserve Accounts

6475. (a) Each association shall maintain an adequate statutory net worth appropriate for the conduct of its business and the protection of its savings account holders.

(b) The commissioner shall fix a minimum statutory net worth requirement applicable to all associations, but the requirement shall not exceed 3 percent of an association's total assets. In defining total

assets, the commissioner may issue regulations to exclude from the total asset figure any asset items deemed appropriate by the commissioner. For the purpose of computing total assets as of any given date, an association at its option may use the average of total assets as of the end of the preceding calendar year and the total assets of the association at the end of any one or more, up to four, of the immediately preceding calendar years providing all the dates are consecutive.

(c) If the statutory net worth falls below the level specified by the commissioner, the commissioner may require the association to increase its statutory net worth within the time and in a manner designated by the commissioner, so as to bring the amount to the level determined adequate under this section, and may, in addition, require the association to do any one or more of the following:

(1) Increase its liquid assets and maintain that increased liquidity at the level specified by the commissioner.

(2) Cease to:

(A) Accept savings accounts of all classes or categories, except in exchange for accounts already outstanding.

(B) Accept savings accounts of any particular class, category, or amount.

(C) Receive additional funds upon savings accounts already outstanding other than installment accounts.

The provisions of paragraph (2) of subdivision (c) shall not prevent an association from crediting to savings accounts the interest earned on the accounts.

(3) Cease all lending, lending in a particular area, or making a particular type or category of loans.

(4) Cease purchase of loans or other investments.

(5) Cease or limit promotional expenditures.

(6) Convene a meeting or meetings of its board of directors with the commissioner in attendance to accomplish the objectives of this section.

(7) Take any other steps that the commissioner deems necessary to safeguard the interests of the association and the public.

6476. Each association shall set up and maintain the reserves required by, and may set up and maintain any additional reserves that are permitted by, this division.

The board of directors may make additional transfers to surplus or other reserve accounts.

CHAPTER 4. POWERS OF ASSOCIATIONS

Article 1. General Powers

6500. (a) Each association incorporated pursuant to or operating under the provisions of this division shall have all the powers enumerated, authorized, and permitted by this division and other rights, privileges, and powers, and may engage in any activities singly

or with others, that are incidental to or reasonably necessary or appropriate for the accomplishment of the objects and purposes of the association, as provided by this division. Among others, and except as otherwise limited by the provisions of this division, each association shall have the powers set out in this chapter. Associations shall be subject to the provisions of the General Corporation Law (Division 1 (commencing with Section 100) Title 1 of the Corporations Code) and shall also have all the powers and privileges provided in the General Corporation Law of this state to other corporations except those powers and privileges that are expressly denied to associations in this division. If any provision of the General Corporation Law is inconsistent with any provision of this division, the provisions of this division shall prevail.

(b) All references in this division to the General Corporation Law mean the General Corporation Law effective January 1, 1977, and any subsequent amendments thereto.

(c) In the application of Chapter 23 (commencing with Section 2300) of the Corporations Code to associations, the definition of effective date in Section 2300 is January 1, 1978.

(d) No association shall advertise or hold itself out to the public as a bank. This subdivision shall not be construed to prohibit an association which is a savings bank from advertising or holding itself out to the public as a "savings bank."

(e) No association or director, officer, or employee of an association shall require, as a condition to the granting of any loan or the extension of any other service by the association, that the borrower or any other person undertake a contract of insurance with any specific company, agency, or individual.

6501. An association may have perpetual existence, adopt and use a corporate seal which may be affixed by imprint, facsimile, or otherwise, and adopt and amend bylaws as provided in this division.

6502. An association may sue, be sued, complain, and defend in any court.

6503. An association may acquire, hold, sell, develop, subdivide, dispose of, and convey real and personal property consistent with its objects and powers It may mortgage, pledge, or lease any real or personal property and may take the property by gift, devise, or bequest.

6504 (a) Except by the prior written consent of the commissioner, an association in organization that is not a member of a Federal Home Loan Bank may borrow money from any source not more than an aggregate amount equal to 25 percent of its assets on the date of borrowing, and may pledge and otherwise encumber any of its assets to secure its debts.

(b) An association that is a member of a Federal Home Loan Bank may borrow money from any source without limitation and may pledge and otherwise encumber any of its assets to secure its debts.

6505 (a) An association may issue and sell, directly or through underwriters, capital certificates that represent nonwithdrawable

capital contributions, and constitute part of the reserves and statutory net worth of the association. The certificates shall have no voting rights and shall be subordinate to all savings accounts, debt obligations, and claims of creditors of the association. The certificates shall constitute a claim in liquidation against any reserves, surplus, and other statutory net worth accounts remaining after the payment in full of all savings accounts, debt obligations, and claims of creditors. The capital certificates shall be entitled to the payment of interest prior to the allocation of any income to surplus or other statutory net worth accounts of the association and may be issued with a fixed rate of interest or with a prior claim to distribution of a specified percentage of any net income remaining after required allocations to reserves, or a combination of those features. Losses may be charged against capital certificates only after reserves, surplus, and other statutory net worth accounts have been exhausted.

(b) To the extent permitted by its articles of incorporation, an association authorized to issue capital stock may provide for the conversion of capital certificates into common stock.

6506. (a) An association or foreign association, as defined in Section 8500, prior to doing business in this state, shall obtain and maintain insurance of its savings accounts by either (1) the Federal Savings and Loan Insurance Corporation or (2) any agency of this state established for the purpose of insuring savings accounts of associations.

(b) Any contract of insurance obtained under paragraph (2) of subdivision (a) shall be written upon substantially the same basis as to form, amount, coverage, maturity, voluntary and involuntary termination and other provisions as the insurance contract provided at that time by the Federal Savings and Loan Insurance Corporation and shall comply with any further requirements that the commissioner may establish by regulation.

6507. An association may qualify as and become a member of a federal home loan bank and a home loan bank established as an agency or instrumentality of this state.

6508. An association may become a member of, deal with, maintain reserves or deposits with, or make reasonable payments or contributions to any organization or instrumentality whether government or private, to the extent that the organization or instrumentality assists in furthering or facilitating the association's purposes, powers, services, or community responsibilities, and it may comply with any reasonable requirements or conditions of eligibility.

6509. An association may act as depository for receipt of payments of federal or state taxes and loan funds, and may satisfy any related federal or state statutory or regulatory requirements, including pledging of assets as collateral, payment of interest at prescribed rates, and, notwithstanding any other provision of this division, may issue the accounts subject to the right of immediate withdrawal.

6510. An association may sell any loan, including a participating

interest in a loan, at any time.

6511. Loans secured by real property may be sold to, and are legal investments for, among others, any public or private pension fund, credit union, labor union fund, or public employee association and may be purchased by those institutions directly from an association. Nothing in this subdivision shall be construed as altering any limits imposed by law on the extent of participation in an investment that is made by any entity covered by this subdivision.

6512. An association may hypothecate, exchange, transfer, or pledge its assets in any manner provided by law to secure the deposits of moneys of the United States, postal savings funds, bankrupt estates, this state, or of any county, city or other political subdivision, public corporation, or district of this state.

6513. An association may service loans and investments for others.

6514. (a) An association may act, and receive compensation for so acting, as trustee of any trust created or organized in the United States and forming a part of a stock bonus, pension, or profit-sharing plan that qualifies for specific tax treatment under Section 401 of the Internal Revenue Code of 1954 (26 U.S.C., Sec. 401), as amended.

(b) It may also act, and receive compensation for so acting, as trustee or custodian of an individual retirement account within the meaning of Section 408 of the Internal Revenue Code of 1954.

(c) Assets of the trust or account must be invested only in savings accounts of the association, in obligations or securities issued by the association, or in other investments that are approved by the commissioner.

(d) All assets held in fiduciary capacity by any association under the authority of this section may be commingled and consolidated for appropriate purposes of investment if records reflecting each separate beneficial interest are maintained by the fiduciary or by another appropriate party who assumes that duty.

(e) The trustee or custodian may accept noncash assets under this section if the assets are converted into cash as soon as practicable.

6515. (a) Notwithstanding any provisions of Division 1 (commencing with Section 99), Section 202 of the Corporations Code, or any other provisions of law relating to trusts and trust authority, subject to regulations of the commissioner, an association may act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which banks, trust companies, or other corporations are permitted to act under the laws of this state, directly or through a state or nationally chartered subsidiary.

(b) All acts provided in this code to be performed by the Superintendent of Banks, the State Treasurer, or other public officials for or in respect to the deposit of securities by trust companies for the protection of court and private trusts shall be performed as well for or in respect to the deposit of securities by any association or the trust companies of any association organized or doing business under the laws of this state, or by any federal

association authorized to transact a trust business. An association may advertise its authority to engage in and conduct a trust business and to advertise for and solicit a trust business in this state, notwithstanding any other provision of law.

(c) 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, an association or federal association, or a service corporation which is authorized to exercise trust powers, when the association, federal association, or service corporation is acting in its fiduciary capacity as trustee.

(d) Subdivision (c) creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution. Notwithstanding any other provision of law, subdivision (c) does not exempt an association, federal association, or a service corporation of such associations, from complying with all other laws and regulations governing the business in which the association, federal association, or service corporation is engaged.

6516. (a) Subject to regulations issued by the commissioner, an association may own and use or participate in the use or ownership and use of remote service units.

(b) A remote service unit is not a branch or agency.

6517. Subject to Regulation E (12 CFR Part 205) and to rules and regulations of the commissioner, an association may transfer funds between holders of savings accounts, and third parties, or their designees, by means of an electronic funds transfer system No system or any part of it, including terminals or processing centers, shall of itself be considered a branch office or agency.

6518. (a) An association may maintain and rent safes, boxes, or other receptacles or premises for the safekeeping of personal property upon terms and conditions that may be agreed upon.

(b) An association that rents or otherwise makes safe-deposit boxes available to the public is entitled to all of the remedies set forth in Article 2 (commencing with Section 1660) of Chapter 13 of Division 1, and may dispose of the unclaimed contents of safe-deposit boxes in the manner set forth in that article.

6519. An association may sell money orders, travel checks, and similar instruments drawn by it on its bank accounts or as agent for any organization empowered to sell the instruments through agents within this state.

6520. An association or service corporation may act as an agent for others except that an association may not act as an insurer or transact insurance as agent for an insurer. Any savings and loan association holding company or any service corporation that acts as an agent of an insurer shall conform to the requirements of Section 6500 and to the requirements of Section 770.1 of the Insurance Code.

6521. An association or service corporation may act as escrow holder in connection with the sale, transfer, encumbering or leasing

of real property.

6522. (a) An association may declare and pay dividends on capital stock, in cash or property out of the unreserved and unrestricted earned surplus of the association, or in its own shares, from time to time except when the association has failed to maintain the minimum required level for statutory net worth and except when the association is in an impaired condition or when the payment of the dividend would cause the association to be in an impaired condition.

(b) A stock split, as defined in Section 188 of the Corporations Code, and a reverse stock split, as defined in Section 182 of the Corporations Code, are authorized and shall not be construed to be dividends within the meaning of this section.

6523. (a) An association may use advertising, whether printed, broadcasted by radio, televised, displayed, or communicated in any other manner or make any representation that is accurate and does not misrepresent its services, contracts, investments, or financial condition.

(b) The commissioner may require an association to file a true copy of the text of any advertising in the office of the commissioner at least five days prior to its issuance, circulation, or publication. Advertising filed under this subdivision may be used upon the commissioner's express approval or failure to disapprove it within five days of its filing.

(c) Associations shall not issue, circulate, or publish any advertising after notice in writing from the commissioner that in the commissioner's opinion the advertising is inaccurate or misrepresents the association's services, contracts, investments, or financial condition.

6524. 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 Savings and Loan Commissioner. 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.).

6525. (a) Notwithstanding the provisions of Sections 1051, 1052, and 1054 of the Labor Code and Section 2947 of the Penal Code, an 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 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 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 association determines that employment of the applicant would constitute an unreasonable risk to the 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.

6526. An association may issue commercial and standby letters of credit in conformance with the Uniform Commercial Code or the Uniform Customs and Practice for Documentary Credits Act and may pledge collateral to secure its obligations thereunder. Except as otherwise provided by regulations of the commissioner, such issuance shall be subject to the following requirements:

(a) Each letter of credit must conspicuously state that it is a letter of credit.

(b) The issuer's undertaking must contain a specified expiration date or be for a definite term, and must be limited in amount.

(c) The issuer's obligation to pay must be solely dependent upon the presentation of conforming documents as specified in the letter of credit, and not upon the factual performance or non-performance by the parties to the underlying transaction.

(d) The account party must have an unqualified obligation to reimburse the issuer for payments made under the letter of credit.

To the extent funds are advanced under a letter of credit without compensation from the account party, the amount shall be treated as an extension of credit subject to percentage of assets limits and other requirements under an applicable provision of this division.

6527. If a loan or other investment is authorized under more than one section of this division an association may designate under which section the loan or investment has been made. Such a loan or investment may be apportioned among appropriate categories, and may be moved, in whole or in part, from one category to another

Article 2. Branching and Agency Powers

6550. (a) A branch office is a legally established place of business of an association other than the home office, a remote service unit, or any agency, authorized by the board of directors and approved by the commissioner, where the business of an association may be conducted.

(b) An association may, with the approval of the commissioner, conduct business outside this state, subject to the laws of the state in which the business is done.

6551. (a) An agency of an association is a place, person or facility, stationary or mobile, other than the home office, a remote service unit, or a branch office, at or through which business of the association that is specified by the board of directors and approved by the commissioner may be transacted.

(b) The agency may perform other special duties and functions as may be directed from time to time by the home office or a branch office and approved by the commissioner.

(c) An agency may perform only those activities, duties, or functions as are authorized for savings associations by the provisions of this division or regulations of the commissioner.

6552. No association may establish or maintain a branch office or agency without the prior written approval of the commissioner, except that temporary and incidental agencies may be created for individual transactions and for special temporary purposes without approval.

6553. (a) Each application for approval of the establishment and maintenance of a branch office or one or more agencies shall include the following

(1) The proposed location of the branch or agency.

(2) The functions to be performed at the branch or agency.

(3) Any additional information the commissioner deems necessary to reach a decision.

(b) Each application shall be accompanied by the filing fee as prescribed pursuant to Section 9001 and by a budget of the association for the current earnings period and for the next succeeding annual period, which reflects the estimated additional expense of the maintenance of each branch or agency covered by the application.

6554. (a) Upon receipt of a complete application for a branch office or agency, the commissioner shall give written notice of the filing of the application to each association. The notice shall state the name of the association and the name of the city or community in which the branch or agency is proposed to be located, and in the case of an agency, the function to be performed.

(b) If a hearing is to be held, the hearing shall not be held less than 10 days after the mailing of a notice of hearing under subdivision (a).

6555. (a) Before acting on an application for a branch office or

agency, the commissioner may hold a hearing at the time and place specified in the notice of hearing required by Section 6554.

(b) Any person may appear at the hearing in person or by agent or attorney, and, pursuant to regulations issued by the commissioner, show cause why the application should not be approved.

6556. (a) Upon review of the application for a branch office or agency and holding a hearing if one is deemed necessary, the commissioner shall determine whether all of the following criteria are met:

(1) The applicant's policies, financial condition, and operations afford no basis for supervisory objection.

(2) The proposed branch office or agency will be opened within a reasonable time after approval, as determined by the commissioner.

(b) If the commissioner determines that the criteria set forth in subdivision (a) are met the application shall be approved.

(c) If the commissioner determines that the criteria set forth in subdivision (a) are not met the application shall be denied. An application may also be denied on the basis of restrictions imposed by the commissioner under an existing agreement with the Federal Home Loan Bank Board.

6557. The provisions of this article relating to branch office and agency applications do not apply to a branch office or agency of an existing association acquired pursuant to a merger, consolidation, conversion, or transfer of assets.

6558. The commissioner may adopt rules and regulations relating to any action pertaining to branch offices and agencies regulated by this article.

CHAPTER 5. SAVINGS OPERATIONS

Article 1. Savings Liability

6600. The savings liability of an association shall consist only of the aggregate amount of its savings accounts, plus interest earned or credited to the accounts, less redemption and withdrawal payments.

6601. Except as limited by the association from time to time or by state or federal law or regulations, account holders may make additions to their savings accounts in amounts and at times they elect.

6602. Savings accounts may be opened for cash or, subject to any limitations or restrictions in regulations issued by the commissioner, for property in which the association is authorized to invest. In the absence of fraud in the transaction, the value of the property taken in payment, as determined by the board of directors, shall be conclusive.

6603. No member of a mutual association is responsible for any losses of the association, no savings account is subject to assessment, and no savings account holder is liable for any unpaid installments

on the account.

Article 2. Savings Accounts

6650. As used in this article:

(a) "Account" means withdrawable or repurchasable shares, investment certificates, deposits or savings accounts as defined in Section 561.11 of Title 12 of the Code of Federal Regulations or in regulations promulgated pursuant to Section 3502 of Title 12 of the United States Code, pursuant to which the account holder from time to time may make deposits and effect withdrawals and as to which the address shown on the records of the association is within the United States or its territories.

(b) "Account holder" means a person who is identified on the signature card for an account, or in the absence of a signature card, a person who has an interest in an account which is reflected on the records of the association for that account to whom statements of account or other notices are normally given, or the agent of such person.

(c) "Charges" means those charges which an association may, from time to time, impose on an account in the normal course of business in the operation of the account and, does not include:

(1) Charges which may be imposed for extraordinary services furnished at the specific request of the account holder.

(2) Charges or amounts required to be disclosed to the depositor pursuant to the Truth-in-Lending Act (15 U.S.C. 1601, et seq.) and Regulation Z (12 C.F.R. 226 1, et seq.), as amended.

6651. Except for savings accounts issued in marketable or bearer form, savings accounts shall be represented only by the account of each savings account holder on the books of the association, and the accounts or any interest in the accounts shall be transferable only on the books of the association and upon proper written application, and acceptance by the association of the transferee as a holder upon terms approved by the board of directors.

6652. (a) Upon the filing with an association by the savings account holder of record as shown by the books of the association, or by the holder's legal representative, of an affidavit to the effect that the evidence of account has been lost or destroyed, and that the account has not been pledged or assigned in whole or in part, the association shall issue a new evidence of account in the name of the holder of record.

(b) The new evidence of account may state that it is issued in lieu of the one lost or destroyed and that the association shall not be liable for the loss or destruction of the original evidence of account.

(c) The association may require an indemnification or a bond in an amount it deems sufficient to indemnify the association against any loss which might result from the issuance of a new evidence of account under this section.

6653. (a) No association shall, directly or indirectly, for the

opening or increasing of any savings account, give, sell, dispose of, or permit the giving, selling, or disposition of, for any one opening or increase anything having a cost or value in excess of the amount authorized by the commissioner by regulation.

(b) Notwithstanding subdivision (a) the commissioner is authorized to impose by regulation restrictions on associations, relating to the distribution and advertising of giveaways, equivalent to those imposed on federal associations doing business in this state.

6654. (a) No later than 10 days, and no sooner than 60 days prior to the maturity date of any fixed-term savings account, an association shall notify the account holder, in writing, of the maturity date.

(b) The notification shall also inform the holder of the length of time available for changing the status of the account after its maturity date.

(c) If no interest is paid beyond the maturity date, the holder shall be so informed.

(d) If, pursuant to an agreement, the fixed-term savings account is renewed, the account holder 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 account holder 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, including, if any, the index or formula to be utilized in determining such variation.

(e) It is the intent of the Legislature that associations not be precluded from supplying account holders 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 payable to bearer.

(2) A fixed-term savings account that contemplates subsequent additions to the account having the same maturity date as the initial deposit, as to which the association has agreed to pay the balance of the account to the holder on an annual or more frequent basis.

(3) A fixed-term savings account having a fixed term of not more than 92 days.

(g) For the purposes of this section, fixed-term savings account includes an account that represents funds deposited to the credit of one or more natural persons, or an unincorporated association, organization, partnership, or corporation operated primarily for religious, philanthropic, charitable, educational, fraternal, or other similar purposes, and does not include accounts that represent funds deposited to the credit of an unincorporated association, organization, partnership, or corporation operated for profit.

6655. 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; (3) if the rate of interest may vary, the circumstances under which a variation may occur and the method of determining the new rate of interest; and (4) 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 how to get the information

6656. (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 account holder, which the account holder may retain, setting forth the information described in Section 6655.

If the account holder 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 account holder personally, or mail or deliver it to the account holder 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) Before any charge which has been disclosed in a statement furnished to an account holder is increased for that account, or any charge which has not been disclosed in a statement furnished to an account holder 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 account holder personally, or mail or deliver to the account holder 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 by 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 as to which the rate of interest applicable to all or any portion of the account balance may vary, whether or not pursuant to a specified index or formula, 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 an account holder than under the previous rate, method, or frequency, the association shall deliver to the account holder personally, or mail or deliver to the account

holder 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) If there is more than one account holder with respect to an account, the association need furnish the information required by this section to only one of them.

(d) 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.

(e) For the purposes of the second paragraph of subdivision (a), an association is not required to make subsequent initial disclosures solely because an account holder 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.

6657. (a) An association which imposes a charge or an increase thereof on an account in violation of Section 6656 is liable to the account holder of that account in an amount equal to the sum of all charges or the increases therein imposed on that account in violation of that section.

(b) An association which makes a change in the rate of interest or the method or frequency of computing or paying interest on an account that will be less favorable to an account holder in violation of Section 6656 is liable to the account holder of that account in an amount equal to the interest that would have been earned pursuant to the previous rate, method, or frequency less the interest earned pursuant to the previous rate, method, or frequency less the interest earned pursuant to the less favorable rate, method or frequency.

(c) An association shall not be liable for a violation of Section 6656 if the association shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, that the association maintains reasonable procedures to avoid such error, and that such error was corrected by furnishing the written statement or statements in the manner provided in Section 6656 within 60 days from the date on which the violation occurred, provided that the association credits to the account holder's account the amounts described in subdivisions (a) and (b) not later than 20 days from the date of which the violation was discovered.

(d) Notwithstanding any other provision of law but subject to the

power of the court to transfer actions or proceedings under Title 4 (commencing with Section 392) of Part 2 of the Code of Civil Procedure, the proper court for the trial of an action under this article is the court in the county in which the branch office of the association is located at which the account is maintained as to which a violation of this article is alleged to have occurred.

(e) Reasonable attorney's fees may be awarded by the court to the prevailing party in an action under this section which is brought by an aggrieved account holder.

(f) (1) An action to enforce a liability established by subdivision (a) shall be commenced within one year from the date on which the violation of Section 6656 occurs.

(2) An action to enforce a liability established by subdivision (b) shall be commenced within one year from the date on which interest is first paid following the violation of Section 6656.

(g) An association shall not be liable for any failure to comply with the provisions of this article to the extent that any of such provisions are inconsistent with federal statutes or regulations.

(h) The remedies and defenses provided in this section are cumulative to, in addition to, and not exclusive of, any other remedies or defenses which an account holder or an association may have in an action or proceeding arising out of the same facts but not brought pursuant to this article. If an association complies with the provisions of subdivision (c), any duties imposed by this article shall not result in a cause of action which did not exist prior to the operative date of this article.

6658 Notwithstanding Section 5202, a violation of Section 6654, 6655 and 6656 shall not constitute a public offense.

6659. An association shall inform a depositor of the applicable period for the escheat of the account to the state and the circumstances under which escheat may occur pursuant to subparagraph (a) of Section 1513 of the Code of Civil Procedure at the time of furnishing the written statement described in subdivision (a) of Section 6656, and the information described in this section may be included in the written statement. The failure to provide information pursuant to this section shall not constitute a violation of Section 6656.

6660. (a) For the purposes of this section:

(1) "Customer" means one or more natural persons.

(2) "Debt" means an interest-bearing obligation or an obligation that by its terms is payable in installments, which has not been reduced to judgment, arising from an extension of credit to a natural person primarily for personal, family, or household purposes, and does not mean a charge for savings and loan services, for a debit for uncollected funds, for dishonored checks cashed for a customer, or for an overdraft account imposed by an association on a savings account.

(b) An association is limited in exercising any setoff for a debt claimed to be owed to the association by a customer in that a setoff

shall not result in an aggregate balance of less than one thousand dollars ($1,000) as shown on the records of the association for all demand savings accounts maintained by a customer with the association or any of its branches.

(c) Not later than the day following the exercise of any setoff with respect to a savings account for any debt claimed to be owed to the association by a customer, the association shall deliver to each customer personally or send by first-class mail postage prepaid to the address of each customer as shown on the records of the association a written notice in at least 10-point type containing the following:

(1) A statement that the association has set off all or part of a debt against the customer's account, identifying the account, and giving the respective balances before and after the setoff.

(2) A statement identifying the debt setoff against the account and giving the respective balances due before and after the setoff.

(3) A statement that if the customer claims that the debt has been paid or is not now owing, or that the funds in the account consist of moneys expressly exempt pursuant to Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, and listed in the notice, the customer may execute and return the notice to the association by mail at the address shown or personally to the branch where the customer's account is maintained not later than 20 days after the date of mailing or personal delivery.

(4) A statement that (A) if the notice is executed and returned, the association may file an action in court to collect the debt, (B) that if a lawsuit is filed, the customer will be notified and have an opportunity to appear and defend, and (C) that if the association is successful, the customer will be liable for court costs, and attorney's fees, if the debt so provides.

(5) A response form in at least 10-point type containing substantially the following:

"The debt described in the Notice of Setoff received from the savings and loan association is _____ is not _____ my debt or the debt of another person in whose name the account is maintained.

I claim that the debt:

_____has been paid.

_____is not now owing.

_____is not subject to setoff because the money in the account is:

_____Paid earnings (CCP 704.070)

_____Proceeds from execution sale of or insurance for loss of a motor vehicle (CCP 704.010)

_____Proceeds from execution sale of household furnishings or other personal effects (CCP 704.020)

_____Relocation benefits (CCP 704.180)

_____Life insurance proceeds (CCP 704.100)

_____Disability and health insurance benefits (CCP 704.130)

_____Workers' compensation benefits (CCP 704.160)

_____Unemployment or strike benefits (CCP 704.120)
_____Retirement benefits including, but not limited to, social security benefits (CCP 704.080, 704.110, 704.115)
_____Public assistance benefits including welfare payments and supplemental security income (SSI) or charitable aid (CCP 704.170)
_____Proceeds from sale of or insurance for damage or destruction of a dwelling (CCP 704.720, 704.960)
_____Proceeds from execution sale of or insurance for loss of tools of a trade (CCP 704.060)
_____Award of damages for personal injury (CCP 704.140) or wrongful death (CCP 704.150)
_____Financial aid paid by an institution of higher education to a student for expenses while attending school (CCP 704.190)

I declare under penalty of perjury that the foregoing is true and correct.

Executed at _____, California on _____
City or County Date

Signed:_____ "

(d) If the response form described in subdivision (c) executed by the customer is received by the association not later than 20 days after the date of mailing or personal delivery of the written notice, the amount of the setoff for any debt claimed to be owed to the association by a customer, and any service charges resulting from the setoff, shall be reversed and shall be credited to the customer's account not later than the end of the third business day following receipt of the executed response form.

(e) The limitations provided in this section do not apply to accounts in which the association has a security interest expressed by a written contract as collateral for the debt owing to the association by the customer.

(f) The limitations provided in this section do not apply when a customer previously has authorized an association in writing to periodically debit an account as the agreed method of payment of the debt.

(g) The limitations provided in this section shall apply only to the exercise by an association of a setoff with respect to debts claimed to be owing to it by customers on or after July 1, 1976.

(h) Nothing in this section shall prejudice a person's right to assert exemptions under Chapter 4 (commencing with Section 703.010) of Division 2 of Title 9 of Part 2 of the Code of Civil Procedure, or to assert a claim or defense as to the validity of the debt, in a judicial proceeding.

6661. Notice to an association of an adverse claim to a savings account of, or to personal property held for the account of, any person shall be disregarded, and the association, notwithstanding the

notice, shall honor withdrawal applications and shall pay withdrawals and interest to the person or persons to whose credit the account stands or shall deliver the property to or upon the order of the person for whose account the property is held, without any liability on the part of the association; subject, however, to the exceptions provided in Section 6651 and in subdivisions (a) and (b):

(a) If an adverse claimant delivers to the association at the office at which the account is carried or the property held an affidavit of the claimant stating that of the claimant's own knowledge the person to whose credit the deposit stands or for whose account the property is held is a fiduciary for the adverse claimant and that the claimant has reason to believe the fiduciary is about to misappropriate the account or the property, and stating the facts upon which the claim of fiduciary relationship and the belief are founded, the association shall refuse to pay withdrawals or interest on the account and shall refuse to deliver the property for a period of not more than three court days (including the day of delivery) from the date that the association received the adverse claimant's affidavit, without liability on its part and without liability for the sufficiency or truth of the facts alleged in the affidavit.

(b) If at any time, either before, after, or in the absence of the filing of an affidavit by the adverse claimant, the adverse claimant procures and serves upon the association at the office at which the account is carried or the property held a restraining order, injunction, or other appropriate order against the association from a court of competent jurisdiction in an action in which the adverse claimant and all persons in whose names the account stands or for whose account the property is held are the parties, the association shall comply with the order or injunction, without liability on its part.

(c) The provisions of this section shall be applicable even though the name of the person appearing on the association's books to whose credit the account stands or for whose account the property is held is modified by a qualifying or descriptive term such as "agent," "trustee," or other word or phrase indicating that the person may hold the account or property in a fiduciary capacity.

Article 3. Contracts for Savings Programs

6700. An association may contract with the proper authorities of any public or nonpublic elementary or secondary school or institution of higher learning, or any public or charitable institution caring for minors, for the participation and implementation by the association in any school or institutional thrift or savings plan, and it may accept savings accounts at the school or institution, either by its own collector or by any representative of the school or institution that becomes the agent of the association for that purpose.

6701. An association may contract with any employer, as follows:

(a) With respect to the solicitation, collection, and receipt of savings by payroll deduction to be credited to a designated account

or accounts of its employees who voluntarily elect to participate.

(b) With respect to the direct deposit of wages or salary paid to the account of the employee by electronic or other medium upon authorization in writing by the employee and designation of the association as the recipient of the deposits.

6702. An association may pay commissions or fees in cash or merchandise for soliciting deposits to any employee of the association or to any broker or agent as determined by the association.

Article 4. Powers of Attorney on Savings Accounts

6725. (a) Notwithstanding any other provision of law, an association or federal association may continue to recognize the authority of an attorney-in-fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a holder, whether minor or adult, until it receives written notice or is on actual notice of the revocation of authority, whether the revocation is express or by operation of law.

(b) Except as provided in Sections 2400 through 2407 of the Civil Code, written notice of the death or adjudication of incompetency of the account holder that is delivered to the office where the account is maintained shall constitute written notice of revocation of the authority of the attorney-in-fact.

(c) No association or federal association shall be liable for damages, penalty, or tax by reason of any payment made pursuant to this section.

Article 5 Married Persons and Minors

6750. Except as otherwise expressly provided in this article, an association or federal association may issue savings accounts to any married person or minor as the sole and absolute owner of the account, and receive payments by or for the owner, and pay withdrawals, accept pledges to the association, and act in any other manner with respect to the accounts on the order of a married person or minor. A married person or minor may establish a trust under Sections 401 and 408 of the Internal Revenue Code, and an association or federal association may issue savings accounts to the trust

6751. Any payment or delivery of rights to a married person, to any minor, or to a trust established by or for a married person, or a minor, or a receipt or acquittance signed by a married person or by a minor who holds a savings account, shall be a sufficient release of the association or federal association for any payment made or delivery of rights to the married person or minor.

6752. (a) In the case of a minor, the receipt, acquittance, pledge, or other action required by the association to be taken by the minor shall be binding upon the minor with like effect as if the minor were

of full age and legal capacity.

(b) Except under subdivision (c), the parent or guardian of the minor shall not have the power to attach or transfer any savings account issued to or in the name of the minor, provided that a parent or guardian of a minor aged 13 or less may require, by written notice delivered to the office where the account is maintained, that the signatures of both the minor and the parent or guardian be required for withdrawals from the account.

(c) In the event of the death of a minor the receipt or acquittance of either parent, guardian, or foster parent of the minor is a sufficient discharge of the association or federal association for any sums not exceeding in the aggregate two thousand five hundred dollars ($2,500) unless the minor has given written notice to the association to accept the signature of the parent, guardian or foster parent to withdraw a greater amount.

Article 6. Joint Ownership Accounts

6800. When a savings account is maintained in any association or federal association in the names of two or more persons, whether minor or adult, in which the moneys in the account are payable to any of those persons or the survivor or survivors, the account and all additions to it shall be the property of the persons as joint tenants with rights of survivorship.

6801. The moneys in a joint ownership account may be paid to or on the order of any one of the joint owners during their lifetimes or to or on the order of any one of the survivors of them after the death of any one or more of them, subject to the provisions of Section 14345 of the Revenue and Taxation Code. An association or federal association continues to have the power to change the ownership of a joint ownership account on the written instructions of any one of the joint owners during their lifetimes or on the written instructions of any one of the survivors of them after the death of any one or more of them.

6802. The opening of a joint ownership account shall be conclusive evidence in any action or proceeding to which either the association or federal association or the survivor or survivors is a party, of the intention of all of the parties to the account to vest title to the account and the additions to it in the survivor or survivors.

6803. (a) By written instructions given to the association or federal association at the office where the account is maintained by all the parties to a joint ownership account, the signatures of more than one of the joint owners during their lifetimes or of more than one of the survivors after the death of any one of them may be required on any check, receipt, record change order, or withdrawal order, in which case the association shall pay the moneys in the account only in accordance with the instructions, but no instructions shall limit the right of the survivor or survivors to receive the moneys in the account

(b) Payment of all or any of the moneys in the account as provided in this article shall discharge the association from liability with respect to the moneys so paid, prior to receipt by the association of a written notice from any one of the joint owners directing the association not to permit withdrawals in accordance with the terms of the account or the instructions. After receipt of the notice an association may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties.

(c) Rights of the parties may be determined under subdivision (b) by any one of the following:

(1) Decree by a court.

(2) A written agreement signed by each of the joint owners, setting forth their respective rights.

(3) A written revocation of the notice made under subdivision (b), signed by the joint owner that made it.

6804. Except as provided under Section 14347 of the Revenue and Taxation Code, no association or federal association paying any survivor in accordance with the provisions of this article shall, because of the payment, be liable for any estate, inheritance, or succession taxes that may be due this state.

6805. The pledge or hypothecation to any association or federal association of all or part of a joint ownership account signed by any one or more owners, whether minor or adult, upon whose signature or signatures withdrawals may be made from the account shall, unless the terms of the account provide specifically to the contrary, be a valid pledge and transfer to the association of that part of the account pledged or hypothecated, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account.

Article 7. Accounts of Administrators, Executors, Guardians, Custodians, Trustees, and Other Fiduciaries

6850. Any association may accept fiduciary savings accounts in the name of any administrator, executor, custodian, conservator, guardian, trustee, or other fiduciary for a named beneficiary or beneficiaries.

6851. (a) The withdrawal value of a fiduciary account, and interest on it, or other rights relating to it, may be paid or delivered, in whole or in part, to the fiduciary without regard to any notice to the contrary as long as the fiduciary is living.

(b) The payment or delivery to the fiduciary or a receipt or acquittance signed by a fiduciary to whom payment or delivery of rights is made shall be a sufficient release of an association for the payment or delivery.

6852. (a) Whenever a person holding an account in a fiduciary capacity dies and no written notice of the revocation or termination of the fiduciary relationship has been given to an association and the

association has no written notice of any other disposition of the beneficial estate, the withdrawal value of the account, and interest on it, or other rights relating to it, may, at the option of an association, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries.

(b) In the absence of written notice to the contrary an association may presume that each beneficiary of an account with two or more beneficiaries has an undivided equal beneficial interest in the account.

6853. (a) Whenever an account is opened by any person as trustee for another and no other or further notice of the existence and terms of a valid trust has been given in writing to the association, in the event of the death of the person described as trustee, the withdrawal value of the account or any part of it, together with the interest, may be paid to the person or persons for whom the account was opened.

(b) The payment or delivery to the beneficiary, beneficiaries, or designated person, or a receipt or acquittance signed by the beneficiary, beneficiaries, or designated person for the payment or delivery is a sufficient release of an association for the payment or delivery.

(c) An account opened under this section may be designated as a tentative or Totten trust account.

(d) The trustee of an account opened under this section shall, until death, retain the power to hold, manage, pledge, and invest the funds in the account and may revoke the tentative trust, in whole or in part, at any time by delivering to the association a request for withdrawal of all or part of the account.

(e) All unpaid interest on an account under this section shall be the property of the trustee until the death of the trustee, at which time it shall become part of the corpus of the trust.

(f) If more than one person is named as trustee under this section the tentative trust shall continue until the death of all the trustees.

(g) If no beneficiary is living at the time of the death of the trustee the association may pay the withdrawal value of the account to the estate of the trustee.

6854 (a) As used in this section, "pay-on-death provision" means:

(1) A provision or term of a share or investment certificate which is in the name of one person, which provides that upon the death of that person the share or investment certificate shall become the property of one or more designated payees.

(2) A provision or term of a share or investment certificate which is in the name of two or more persons which provides that upon the death of all of such persons the share or investment certificate shall become the property of one or more designated payees.

(b) Any transfer of property to the designated payee or payees pursuant to the terms of a pay-on-death provision shall be given effect under the terms of the share or certificate and shall not be

deemed to be a testamentary disposition of property. The right of the designated payee or payees to receive such property shall not be denied, abridged, or affected on the grounds that the right has not been created by a writing executed in accordance with the laws of this state prescribing the requirements to effect a valid testamentary disposition of property.

(c) Except as provided in Section 6661, the association shall make payment in accordance with the pay-on-death provision, and such payment shall discharge the association from liability with respect to the moneys so paid.

6855. Except as provided under Section 14347 of the Revenue and Taxation Code, no association paying any fiduciary, beneficiary, or designated person in accordance with the provisions of this article shall, because of the payment, be liable for any estate, inheritance, or succession taxes that may be due this state.

6856. The provisions of this article apply to federal associations to the extent that they are not inconsistent with and do not infringe upon federal laws governing federal associations.

Article 8. Accounts of Incompetents

6900. If an association or federal association has received no written notice and is not on actual notice that the savings account holder has been adjudicated incompetent, it may pay or deliver funds to the account holder in accordance with the provisions of the savings account contract, and the receipt or acquittance of the holder shall be a sufficient release of that association for the payment or delivery.

Article 9. Accounts of Deceased Nonresidents

6950. (a) When a savings account is held in any association or federal association by a person who dies while a resident of another state or country, the account, together with additions and interest, or any part of it, shall be exempt from any taxation otherwise imposed by this state and may be paid to the administrator or executor appointed in the state or country where the account holder resided at the time of death, provided the administrator or executor or other claimant has furnished the association with all of the documentation required under applicable provisions of the Probate Code and evidence of ownership of the account issued under Section 6653.

(b) Upon payment or delivery to the representative after receipt of the documents specified in subdivision (a), the association is released and discharged to the same extent as if the payment or delivery had been made to a legally qualified resident executor or administrator, and is not required to account for the application or disposition of the property.

6951. No action at law or in equity shall be maintained against an

association for payment made in accordance with this article.

Article 10. Savings Accounts as Legal Investments and as Security; Public Funds

7000. (a) Administrators, executors, custodians, conservators, guardians, trustees, and other fiduciaries, insurance companies, business and manufacturing companies, banks, trust companies, credit unions, and other types of similar financial organizations, charitable, educational, eleemosynary and public corporations, funds and organizations, and municipalities and other public corporations and bodies, and public officials are specifically authorized and empowered to invest funds held by them, without any order of any court, in savings accounts of associations and federal associations and the investments are legal investments for those funds.

(b) No association shall have on deposit at any one time funds of the State of California, of the cities, counties, and other political subdivisions of the state, and of the public corporations and districts of the state, that, in the aggregate exceed in amount 400 percent of its statutory net worth. The amount of funds on deposit secured by surety bonds shall not at any time, in the aggregate, exceed 100 percent of statutory net worth.

(c) An association or federal association may act as a depositary or fiscal agent for the holding or handling of public funds notwithstanding the fact that a member of the legislative body or an officer or employee of the depositor is an officer, employee, or stockholder of the association, or of a savings and loan holding company or service corporation of the association.

(d) Under this section a member of a legislative body, or an officer or employee shall not be deemed "interested in any contract" as that phrase is used in Section 1090 of the Government Code, if that person's sole interest is the fact that the person is an officer, employee, or stockholder of the association or federal association selected to act as depositary, paying agent, or fiscal agent or of its savings and loan holding company or service corporation.

(e) An officer or employee of a local public agency shall be deemed to have only a "remote interest" in a contract, as that term is used in Section 1091 of the Government Code, where the contract is entered into without competitive bidding under a procedure established by law, if the sole interest is that of an officer, director, or employee, of an association or federal association or savings and loan holding company or service corporation of the association or federal association with which a party to the contract has the relationship of borrower or depositor, debtor, or creditor, and if the conditions of subdivision (a) of Section 1091 of the Government Code are met.

7001. (a) Whenever, under the laws of this state or otherwise, a deposit of securities is required for any purpose, the savings accounts and accounts made legal investments by this article shall be

acceptable deposits.

(b) Whenever, under the laws of this state or otherwise, a bond is required with security, the bond may be furnished, and the savings accounts and accounts made legal investments by this article in the amount of the bond shall be acceptable as security without other security.

7002. The provisions of this article supplement any and all other laws relating to and declaring what shall be legal investments for the persons, fiduciaries, corporations, organizations' funds, municipalities, bodies, and officials referred to in this article and supplement the laws relating to the deposit of securities and the making and filing of bonds for any purpose.

Article 11. Interest

7050. An association may issue savings accounts earning interest at different rates of return. The annual rate of return paid on a savings account may either be fixed at the time the account is issued or may vary on any basis specified at the time the account is accepted.

7051. An association may classify its savings accounts on any basis including, but not limited to, character, amount, or duration of the account, regularity of additions, or location of origin of the account.

7052. Except for accounts that are classified according to a specified contractual time or notice period, interest shall be based on the withdrawal value of each savings account at the beginning of the accounting period, plus additions made during the period (less amounts previously withdrawn and noticed for withdrawal, which for interest purposes shall be deducted from the latest previous additions) computed at the rate for the time the funds have been invested, determined as provided in Section 7053.

7053. (a) The date of investment in a savings account shall be the date of actual receipt by the association of the account or an addition to the account, except that if the association shall so determine, accounts in one or more classifications or additions received by the association on or before a date not later than the 20th day of the month (unless the day determined is not a business day, in which case it may be the next succeeding business day) shall receive interest as if invested on the first day of the month in which the payments were received.

(b) If the association makes a determination under subdivision (a) it also shall determine that payments received subsequent to that determination date shall either receive interest as if invested on the first day of the next succeeding month, or receive interest from the date of actual receipt by the association.

7054. The board of directors, by resolution, may determine any of the following:

(a) That interest shall not be paid on designated types of savings accounts from which withdrawals may be made upon demand or by

negotiable and transferable order or authorization.

(b) That an association may establish minimum balance requirements for savings accounts to be eligible for distribution of interest.

(c) That, subject to applicable maximum regulatory limitations, an association may pay interest on a savings account at a rate or anticipated rate of return determined at the time that the account is accepted.

7055. The directors shall determine the method of calculating the amount of any interest on any savings account classification as provided in this article and the time or times when the interest is to be paid or credited.

Article 12. Withdrawals

7100. (a) Notwithstanding any other provision of law, but subject to subdivision (b), an association may permit the owner of a deposit or account to make withdrawals by negotiable or transferable instruments for the purpose of making transfers to third parties.

(b) With respect to deposits or accounts on which interest or dividends are paid, subdivision (a) shall apply only to the deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and which is not operated for profit.

(c) Notwithstanding any other provision of law, an association may provide for the automatic transfer of funds services at the direction of an account holder.

Article 13. Redemption

7150. At any time funds are on hand for the purpose, an association shall have the right to redeem by lot or otherwise, as the board of directors may determine, all or any part of any of its savings accounts on an interest date by giving 30 days' notice by registered mail addressed to each affected account holder at the holder's last address as recorded on the books of the association.

7151. Except with the prior consent of the commissioner, no association shall redeem any of its savings accounts when the association is in an impaired condition and when it has applications for withdrawal that have been on file more than 14 days and have not been reached for payment.

7152. The redemption price of savings accounts redeemed shall be the full value of the account redeemed, as determined by the board of directors, but in no event shall the redemption price be less than the withdrawal value.

7153. If the notice of redemption under Section 7150 has been given, and if on or before the redemption date the funds necessary

for the redemption have been set aside and continue to be available for the redemption, interest upon the accounts called for redemption shall cease to accrue from and after the interest date specified as the redemption date and all rights with respect to those accounts shall terminate after the redemption date, except only as to any right of the account holder of record to receive the redemption price without interest.

7154. (a) All certificates of ownership evidencing former savings accounts that have been called for redemption must be tendered for payment within the time limit specified in subdivision (b) of Section 1513 of the Code of Civil Procedure for escheat of unclaimed funds.

(b) Savings accounts that are not tendered for payment as set forth in this section shall escheat to the state as provided in the Unclaimed Property Law, Chapter 7 (commencing with Section 1500) of Title 10 of Part 3 of the Code of Civil Procedure.

CHAPTER 6. INVESTMENT OPERATIONS

Article 1. Required Liquidity

7200. No association shall invest in any security under this chapter, other than in liquid assets, or in any loan at any time when its liquid assets are less than 5 percent of its total assets unless the commissioner shall have issued written approval.

Article 2. Investment in Securities

7250. Notwithstanding any other provision of law, an association may invest in the following securities without limit, and in addition may invest not in excess of 5 percent of its assets in other securities that are deemed prudent by the association:

(a) Obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States, any state, or any state's political subdivisions, including its agencies, corporations and instrumentalities.

(b) Stock or obligations of any federal home loan bank.

(c) Stock or obligations of any international home loan bank or similar agency incorporated by authority of an act of Congress.

(d) Stock or obligations of the Federal Savings and Loan Insurance Corporation.

(e) Stock, obligations, participations, or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, or any other agency of the United States and an association may issue and sell securities that are guaranteed under paragraph (g) of Section 306 of the National Housing Act (12 U.S.C., Sec. 1701 et seq.).

(f) Obligations of, or guaranteed as to principal and interest by,

the Dominion of Canada or any of its provinces, provided that the principal and interest of the obligations are payable in United States funds.

(g) Obligations issued or guaranteed by the International Bank for Reconstruction and Development, by the Inter-American Development Bank, or by the Asian Development Bank.

(h) Demand, time or savings deposits, shares or accounts, or other obligations of any financial institution the accounts of which are insured by a federal agency.

(i) Commercial paper and corporate debt securities, as defined and approved by regulations issued by the commissioner. Investments under this subdivision in the paper or securities of any one obligor or maker shall not exceed the greater of (1) the amount a national bank having identical total capital and surplus could so invest in the paper or securities of any one obligor or maker, or (2) the amount a commercial bank, as defined in Section 105, having an identical shareholders' equity could so invest in the paper or securities of any one obligor or maker

(j) Shares or certificates in any open-end management investment company that is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 and the portfolio of which is restricted by the management company's investment policy, changeable only if authorized by shareholder vote, primarily to investments authorized under this section.

(k) Bonds and other securities as authorized by Section 1352 to 1366, inclusive, 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.

7251. An association holding investments which have been approved by the commissioner shall not be required to dispose of them or to establish a reserve account if later the commissioner rescinds approval of the investments.

7252. (a) Notwithstanding any other provisions of this chapter, an association may, without limit, subject to regulations of the commissioner, invest in the capital stock, obligations, or other securities of service corporations.

(b) An association may make an investment under this section notwithstanding that the service corporation in which investment is authorized has invested in any other corporation (1) that is not incorporated in this state, or (2) that has stock available for purchase by entities other than associations.

Article 3. Investment in and Lease of Business Property

7300. (a) Each association shall have power to invest in real property, tangible personal property and interests in real property for the conduct of the business of the association, or its service

corporation, which power shall include the ownership of stock of a wholly owned subsidiary corporation having as its exclusive activity the ownership and management of the property or interests.

(b) The amount invested under this section shall not exceed the sum of the statutory net worth of the association, provided that the commissioner may authorize a greater amount to be so invested. The investment limitation provided in this subdivison shall not apply to investments in property or interests not subject to this section.

(c) As used in this section, the term "real property" includes structures or buildings located on land owned in fee or held under a lease or sublease by the association with an unexpired term, including extensions or renewals that are automatically effective or may be exercised at the association's option, of 25 years at the date of execution by the association of the lease or sublease.

7301. (a) Subject to regulations issued by the commissioner, an association may invest in tangible personal property, including without limitation, vehicles, mobilehomes, machinery, equipment, or furniture, and may hold the property for rental or sale.

(b) Investment under this section is limited to not in excess of 10 percent of the total assets of the association.

Article 4. Purchase of Real Estate

7350. (a) Each association shall have power to invest in the purchase of real estate for the purpose of producing income or for inventory and sale or for improvement including the erection of buildings for sale or rental purposes.

(b) The association may hold, sell, lease, operate or otherwise exercise the rights of an owner of any property acquired under this section.

Article 5. Investment in Loans

7450. No association shall make any loan authorized by this article unless the association first has determined that the type, amount, purpose, and repayment provisions of the loan in relation to the borrower's resources and credit standing support the reasonable belief that the loan will be financially sound and will be repaid according to its terms, and that the loan is not otherwise unlawful.

7451. An association shall not make any one loan in an amount exceeding five hundred thousand dollars ($500,000) principal if the loan exceeds 1 percent of the book value of the association's assets unless consent is obtained from the commissioner.

7452. 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) With respect to loans for personal, family, or household purposes, including loans reasonably incident to the provision of such credit, the total of such loans shall not exceed 30 percent of the assets of the association.

7453. (a) No association shall make a loan for commercial, corporate, business, or agricultural purposes to one borrower if the sum of the amount of the loan and the total balance of all outstanding loans for those purposes owed to the association by that borrower exceed the greater of (1) the amount a national bank having an identical total capital and surplus could lend to one borrower, or (2) the amount a commercial bank, as defined in Section 105, having an identical total shareholders' equity, capital notes, and debentures, could lend to one borrower.

(b) As used in this section the term "one borrower" includes:

(1) Any person that is or becomes an obligor on the loans.

(2) Nominees of an obligor, or members of the obligor's household.

(3) All persons, trusts, partnerships, syndicates, and corporations of which the obligor is a nominee or a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock.

(4) If the obligor is a trust, partnership, syndicate, or corporation, all trusts, partnerships, syndicates, and corporations of which any beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock, is also a beneficiary, partner, member, or record or beneficial stockholder owning 10 percent or more of the capital stock of the obligor.

7454. Each association is authorized to issue credit cards, extend credit in connection with the cards, and otherwise engage in or participate in credit card operations.

Article 6. Real Estate Loans

7500. No investment in a real estate loan shall be made until a qualified person or persons approved by the board of directors shall have made a physical inspection and submitted a signed appraisal of the value of the real estate securing the loan, or in the case of a purchased loan, have reviewed and approved the appraisal report in

support of the loan.

7501. Each real estate loan shall be evidenced by a note or instrument of obligation for the amount of the loan. The note or instrument shall specify the amount and terms of repayment including any penalty or charge for late payment, and may contain all other terms of the loan contract.

7502. (a) Each real estate loan shall be secured by a deed of trust, mortgage, or other transaction or instrument constituting a lien or claim, or its equivalent, upon the real estate securing the loan, according to any lawful and recognized practice that is suited to the transaction. Any deed of trust or other instrument or transaction constituting a lien or claim is included in the term "mortgage" in this division.

(b) A mortgage shall provide specifically for full protection to the association with respect to the loan and additional advances, including any terms and conditions that the association deems necessary and appropriate to state the agreement between the parties.

7503. Except as specified by the loan contract or by Section 2954.8 of the Civil Code, an association shall have no obligation to pay interest to the borrower upon funds credited to an impound, trust, or other type of account for payment of taxes, insurance, or other changes relating to the property, or to invest them for the benefit of the borrower, unless the funds have been placed in an interest bearing savings account under the terms of the loan contract.

7504. (a) The maximum term of loans authorized under this division shall not exceed 40 years.

(b) Loan instruments secured by owner-occupied property, or primarily residential property occupied or to be occupied by the borrower, which provide for a balloon payment, shall contain a notice to the borrower as provided in regulations issued by the commissioner

Article 7. Successors in Interest in Loans

7600. In the case of any investment made by an association in a real estate loan, in the event all or part of the ownership of the real estate security becomes vested in a person other than the party or parties originally executing the security instruments, and provided there is not an agreement in writing to the contrary, an association may, without notice to the party or parties, deal with a successsor in interest to the mortgage and debt in the same manner as with the original party or parties, and may forbear to sue or may extend time for payment of or otherwise modify the terms of the debt, without discharging or in any way affecting the original liability of the party or parties or their debt.

Article 8. Salvage of Loans and Investments

7650. Nothing in this division or the laws of this state shall be construed as denying to an association the right to invest its funds, operate a business, manage or deal in property, or take any other action over whatever period of time may reasonably be necessary to avoid loss on a loan or investment made or an obligation created in good faith.

Article 9. Usury Exemption

7675. (a) Pursuant to the authority contained in Section 1 of Article XV of the California Constitution, the restrictions upon rates of interest contained in Section 1 of Article XV of the California Constitution shall not apply to any obligations of, loans made or arranged by, or forbearances of, any association or federal association, an entity that is a savings and loan holding company, a subsidiary of a savings and loan holding company that is not an association, or a service corporation which is a subsidiary of an association or a federal association. As used in this section, the terms "savings and loan holding company" and "subsidiary," means a savings and loan holding company or a subsidiary, as defined in Section 408 of the National Housing Act (12 U.S.C. Sec. 1730a(a)(1)), as amended, and the term "service corporation" means a service corporation described in Section 5(c)(4)(B) of the Home Owners' Loan Act of 1933 (12 U.S.C. Sec 1464), as amended, or Section 7252, or a wholly owned subsidiary referred to in Section 7300.

(b) Subdivision (a) creates and authorizes an exempt class of persons pursuant to Section 1 of Article XV of the Constitution. Notwithstanding any other provision of law, subdivision (a) does not exempt an association or a federal association, a savings and loan holding company, a subsidiary of a savings and loan holding company, or a service corporation which is a subsidiary of an association or a federal association from complying with all other law and regulations governing the business in which the association or federal association, savings and loan holding company, subsidiary of a savings and loan holding company, or service corporation which is a subsidiary of an association or a federal association is engaged.

CHAPTER 7. SUPERVISION

Article 1. Department of Savings and Loan

8000. There is in the state government, in the Business, Transportation and Housing Agency, the Department of Savings and Loan. The chief officer of the department is the Savings and Loan Commissioner, who, except as otherwise provided in this division, is subject to the provisions of the Government Code relating to department heads, but need not reside in Sacramento.

8001. The commissioner shall be appointed by the Governor, with the consent of the Senate, and holds office at the pleasure of the Governor. The commissioner shall receive an annual salary as provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of the Government Code, payable monthly upon a warrant of the Controller.

8002. (a) Before entering upon the duties of his or her office, the commissioner shall take and subscribe an oath of office and execute an official bond in the penal sum of one hundred thousand dollars ($100,000), with sufficient sureties as provided by law.

(b) The cost of the bond shall be an expense of the department.

(c) Suits may be maintained on the bond in the name of the people of this state for the use of the party or parties injured by a breach of a condition of the bond.

8003. (a) The commissioner may appoint attorneys subject to the provisions of the California Constitution, and deputies, examiners, accountants, appraisers, and other employees that are required to properly discharge the duties imposed upon the commissioner by law. Appointments shall not terminate upon the appointment of a successor to the commissioner.

(b) The commissioner shall prescribe the powers and duties of persons appointed under this section. Their compensation shall be fixed, with the approval of the Department of Finance, in accordance with classifications made by the State Personnel Board.

8004. The commissioner shall appoint a chief deputy who holds office at the pleasure of the commissioner. The annual salary of the chief deputy, payable monthly, shall be fixed, with the approval of the Director of Finance, in accordance with classifications made by the State Personnel Board.

8005. The department may expend moneys in accordance with law for the necessary travel expenses of officers and employees of the department while traveling in the line of their duties either within or without the state.

8006. (a) The commissioner may require at any time, of any deputy, examiner, or other employee of the department, an official bond in an amount that the commissioner deems necessary. The premiums for these bonds shall be an expense of the department.

8007. (a) The commissioner shall have offices in the Cities of San Francisco and Los Angeles.

(b) The commissioner shall provide at the expense of the department such office space, furniture, equipment, supplies, postage, and other materials as may be necessary or convenient for the operation of the department.

8008. (a) Except as provided in subdivision (b), the commissioner, and persons appointed by the commissioner shall not be interested in an association, directly or indirectly, either as creditor, stockholder, director, officer, employee, borrower, trustee or attorney, and none of them shall receive, directly or indirectly, any payment, compensation or gratuity from any association.

(b) The commissioner and any person appointed by the commissioner may hold the following interests in an association:

(1) An indebtedness to an association to the extent of a loan secured by a home property, or a mobilehome, owned and occupied by the commissioner or appointee as a principal residence, if the indebtedness was incurred prior to that person's employment with the department.

(2) An insured savings account or an uninsured money market fund account secured by government securities.

(3) Stock in a savings and loan holding company whose association subsidiary comprises less than 10 percent of the consolidated net worth of the holding company and whose stock is listed on a stock exchange.

(c) No provision of this section shall be construed to prohibit the commissioner or appointees from participating in seminars, conferences, and similar functions related to financial institutions.

8009. (a) Except where required by law, regulation, or court order, or permitted under subdivision (b), the commissioner, and all employees of the department, shall not disclose any information acquired by them in the discharge of their duties as prescribed by this division.

(b) The commissioner may furnish information relating to the condition or operation of any association or other organization under department supervision to state and federal authorities that supervise financial institutions, and to state, local and federal law enforcement agencies.

8010. The commissioner, after a determination of value made in accordance with Article 3 (commencing with Section 8150) of Chapter 7, may order that assets, individually or in the aggregate, to the extent that the assets are overvalued on an association's books, be charged off against current operations, or that a special reserve or reserves equal to the overvaluation be set up by transfers from retained earnings or reserves.

Article 2. Savings Association Special Regulatory Fund

8030. (a) To meet the operating costs and expenses provided for in this division, for the payment of which no provision is otherwise made, the commissioner shall require each association doing business in this state to pay in advance an annual assessment for its pro rata share of all operating costs and expenses as estimated by the commissioner for the ensuing year.

(b) As used in this article, "association" includes a foreign association doing business in this state under an approval issued by the commissioner.

8031. (a) The proportion of operating costs and expenses to be assessed against each association shall be determined and prescribed by the commissioner by regulation. The total amount assessed for all associations, together with any existing surplus, shall not exceed the

amount of the budget for the ensuing fiscal year plus a reasonable reserve for contingencies.

8032. (a) On or before the 20th day of June of each year the commissioner shall notify each association by mail of the amount assessed and levied against it.

(b) Except as provided in this article, an association shall pay one-half or more of the amount assessed so as to be received by the commissioner not later than the 10th day of July and shall pay the remainder so as to be received by the commissioner not later than the following 10th day of January.

(c) If payment is not received by the commissioner on time, the commissioner shall assess and collect in addition to the annual assessment, a penalty of 5 percent of the unpaid assessment for each month or part of a month that the payment is delinquent.

8033. If an association ceases to be an association by reason of merger, consolidation, conversion, acquisition of assets, or a similar type of transaction, any unpaid assessment for the fiscal year ended June 30 in which the conversion, merger, or acquisition occurs shall be due and payable on or before the day preceding the date of the conversion, merger, or acquisition. Payment of the unpaid assessment under this section shall be a condition of approval of any transaction requiring the commissioner's approval.

8034. (a) If a new domestic association is formed and licensed during a fiscal year, the initial assessment provided for by this article shall be computed on the same basis as if such new association had been a licensed association and assessed on or before the 20th day of June in the fiscal year preceding the initial assessment except that the initial assessment shall be based on the assets of the new association at the time of issuance of its license and, except as provided in subdivision (b), the assessment shall be reduced, if the license is not issued in July, by one-twelfth for each full month of the fiscal year which has expired at the time of issuance of the license and shall be payable in full on the date of the issuance of the license.

(b) In the levy and collection of an assessment under this article, no association shall be assessed for, or be permitted to pay less than five hundred dollars ($500) for the unexpired portion of the fiscal year in which the domestic association is formed.

8035. If any domestic association proposes to acquire the assets of any federal association or any state or national bank by transfer, conversion, or otherwise, the initial assessment provided for by this article shall be computed on the same basis as if the federal association or state or national bank had been a state association and assessed on or before the 20th day of June in the fiscal year preceding the initial assessment, except that the initial assessment shall be based on the assets of the federal association or of the state or national bank, as shown by the institution's report to the Federal Home Loan Bank, the Superintendent of Banks, or the Comptroller of the Currency, respectively, next preceding the 20th day of June in the fiscal year preceding the initial assessment and the assessment shall

be reduced, if the license is not issued in July, by one-twelfth for each full month of the fiscal year which has expired at the time of the issuance of the license and shall be payable in full on the date of the issuance of the license.

8036. The "Savings and Loan Inspection Fund" is continued in existence in the State Treasury and shall be known as the "Savings Association Special Regulatory Fund," and all money collected or received by the commissioner under this division except money belonging to associations whose business property and assets are in the possession of the commissioner, shall be deposited with the State Treasurer to the credit of the fund.

8037. The Savings Association Special Regulatory Fund shall be used solely to pay the operating costs and expenses of the department provided for in this division and unless otherwise expressly provided for, all operating costs and expenses of the department shall be paid out of the fund.

8038. The commissioner shall pay to the General Fund in the State Treasury from the money received under the provisions of this division a sum equal to all money that has been or may be appropriated or advanced out of the General Fund to the use of the Savings Association Special Regulatory Fund on the condition or with the intention that the amount so appropriated or advanced should be returned.

Article 2. General Supervisory Powers and Duties of Commissioner

8050. (a) The commissioner shall have general supervision over all (1) associations, (2) savings and loan holding companies, (3) service corporations, and (4) other persons that are subject to the provisions of this division.

(b) The commissioner shall enforce the purposes of this division by use of the powers conferred by it and by an action in any court of competent jurisdiction if required.

8051. Each approval, order, or instruction shall be in writing signed by the commissioner or a deputy commissioner and shall be sent by registered or first-class mail, addressed to the home office of the appropriate association or person.

8052. (a) The commissioner shall make a tabulated report to the Governor, through the Secretary of the Business, Transportation and Housing Agency, on or before the first day of May in each year, showing the condition of each association reporting to the department.

(b) The report shall contain recommendations that the commissioner deems proper and shall be accompanied by a detailed statement of all money received since the last report and the disposition of the money.

8053. The commissioner may from time to time issue, amend and rescind any rules, regulations, forms, and orders that are necessary

to carry out the provisions of this division, including rules and regulations governing the administration of any association, savings and loan holding company and their subsidiaries, and defining any terms whether or not used in the law insofar as the definitions are not inconsistent with the provisions of this division. The commissioner may waive any requirement of any rule or regulation in situations where, in the commissioner's opinion, the requirement is not necessary in the public interest or for the protection of the public.

8054. (a) Notwithstanding any other provision of law, whenever by statute or regulation there is extended to federal associations doing business in this state any right, power, privilege, or duty not authorized for state associations, the commissioner may by regulation extend to state associations that right, power, privilege, or duty.

(b) Any regulation adopted under this section shall expire at 12 p.m. on December 31 of the year following the calendar year in which it is promulgated.

(c) For the purposes of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code regulations adopted under this section are subject only to the provisions of Sections 11346.1, 11346.2 and 11349.6 of the Government Code.

(d) The provisions of this section shall not apply to any federal statute or regulation promulgated prior to January 1, 1984.

Article 3. Reports and Examinations

8150. (a) On or before the last day of January in each year, each association, savings and loan holding company, and those subsidiaries of an association or savings and loan holding company that the commissioner may require, shall make an annual written report to the commissioner, in a format to be prescribed by the commissioner.

(b) Each report shall be verified by an authorized officer.

8151. Each association, savings and loan holding company and subsidiary of any association or savings and loan holding company that is required to file an annual report under Section 8150 also shall make any other reports that the commissioner may from time to time require, which shall be in a format and filed on a date that the commissioner may prescribe and shall, if required by the commissioner, be verified in the same manner as the annual report.

8152. From time to time the commissioner may, without previous notice, examine or cause an examination to be made into the affairs of each association, savings and loan holding company and subsidiary of any association or savings and loan holding company subject to this division.

8153. (a) In lieu of a report or an examination under Section 8150 or 8152, the commissioner may accept any report made to, or examination made by, a federal or state authority that supervises

financial institutions, or by a certified or other public accountant or firm of certified or other public accountants selected by the association and approved by the commissioner.

(b) An examination under Section 8152 may be conducted in conjunction with an examination by a federal authority that supervises financial institutions.

8154. (a) Whenever, in the judgment of the commissioner, the condition of any association, savings and loan holding company, or any of their subsidiaries renders it necessary or expedient to make an extra examination or audit or to devote any extraordinary attention to its affairs, the commissioner shall do so or may appoint a certified public accountant to do so

(b) The association specially examined under this section may be required to pay the actual expenses incurred by the commissioner for all extra services rendered by the commissioner or by the appointed accountant.

8155. (a) The commissioner is authorized in connection with any examination or audit of any association or any subsidiary to cause to be made appraisals of real estate or other property held by it or securing its assets.

(b) Unless otherwise ordered by the commissioner, appraisal of real estate or other property in connection with any examination or audit pursuant to this article shall be made by a department appraiser or by an independent professional appraiser employed or selected by the commissioner, and the cost of the appraisal promptly shall be paid by the association or subsidiary to the commissioner or directly to the appraiser upon receipt by it of a statement of cost bearing the written approval of the commissioner.

(c) A copy of the report of each appraisal caused to be made by the commissioner pursuant to this section shall be furnished to the association or subsidiary within a reasonable time, not to exceed 60 days, following the completion of the appraisals.

8156. (a) Each association shall at least annually cause its books and accounts to be audited at its own expense by a certified public accountant or firm of certified public accountants selected by the association

(b) The annual audit shall cover the calendar year unless the association or commissioner fixes a different period pursuant to Section 6453.

8157. (a) The commissioner may prescribe the scope of the annual audit and may require the auditor to furnish information in addition to that contained in the audit report.

(b) Each association shall furnish the commissioner annually, within 90 days after the end of the period covered by the audit, two copies of the financial statements, which shall be accompanied by a report signed by the auditor, prepared and containing the information prescribed in regulations of the commissioner. The financial statements shall be certified by the auditor.

8158 (a) The commissioner, or any department employee

authorized by the commissioner, shall have free access to all books and records of an association, savings and loan holding company, and any of their subsidiaries that relate to the business of the association, holding company, or subsidiary, and to the books and records kept by any officer, agent, or employee that relate to the business of the association, holding company, or subsidiary.

(b) The commissioner, or any department employee authorized by the commissioner, may summon witnesses and administer oaths or affirmations in the examination of the directors, officers, agents, or employees of any association, savings and loan holding company, any of their subsidiaries, or any other person in relation to its affairs, transactions, and conditions, and may require and compel the production of records, books, papers, contracts, or other documents by court order, if not voluntarily produced.

8159. For each department examination or appraisal made outside this state, a reasonable fee and the actual traveling expenses incurred shall be paid to the department by the association so examined.

8160. If an association fails to furnish the commissioner any report required by this article within five days of the due date set forth in this article or, if no due date is set forth in this article, the date specified by the commissioner, the commissioner may assess the association a penalty of one hundred dollars ($100) per day for each additional day the report is delayed or withheld. This sum may be recovered in an action brought by the commissioner in the name of the people of this state.

Article 4. Enforcement

8200. (a) If the commissioner, as a result of any examination or from any report, shall find that any association, savings and loan holding company, or any of their subsidiaries, is violating the provisions of this division or the laws of this state or of the United States or any lawful order or regulation or is engaging in an unsafe or unsound business practice, the commissioner shall, by a formal written order delivered to the home office of the association or organization, state any alleged violation or practice and the facts alleged in support of the violation or practice, and shall order discontinuance of the violation or practice and conformance with all requirements of law

(b) The order shall specify an effective date, which may be immediate or may be at a later date, which shall remain in effect until withdrawn by the commissioner or until terminated by a court order.

(c) The order, upon application made on or after its effective date by the commissioner to a court of general jurisdiction in the county in which the home office of the association or organization is located, shall be enforced ex parte and without notice by an order to comply entered by the court. The proceedings shall be given precedence

over other cases pending in court. and shall in every way be expedited.

(d) Any association or organization affected by an order of the commissioner shall, after its receipt, have the right to apply within 30 days to the court for an immediate hearing and order suspending the order of the commissioner until the hearing has been completed. The hearing shall be held as provided in a notice to the commissioner by the court.

(e) Whether upon application by the commissioner or by the association or organization, the court shall have power to and shall adjudicate the question and shall enter and enforce the proper order or orders.

8201. (a) The commissioner may require that any director, officer, or employee of an association, savings and loan holding company, or any of their subsidiaries, who has participated in a violation or an unsafe or unsound practice as described in Section 8200, be removed from the association or organization if the action of the person or persons concerned was knowingly and willfully taken.

(b) Prior to entering an order of removal, the commissioner shall deliver a full statement of the objectionable acts and conduct to the board of directors of the association or organization and the person or persons concerned and of the commissioner's intention to enter a removal order. If a hearing on the matter is requested within 10 days after delivery of the statement, the commissioner shall hold a public hearing at which any pertinent evidence relating to the matters set forth in the statement may be presented. After the hearing, the commissioner, on the basis of the evidence presented at the hearing, may proceed to enter an order for the immediate removal of the director, officer, or employee affected, a reprimand of the individuals and association or organization concerned, or a dismissal of the entire matter.

(c) If no hearing is requested within the time specified, the commissioner may proceed to enter an order of removal on the basis of the facts set forth in the original statement.

Article 5. Conservatorship

8225. (a) If the commissioner, as a result of any examination or from any report, believes that the public interest may be served by the appointment of a conservator, and if the commissioner finds that any association (1) is in an impaired condition, (2) is engaging in practices that threaten to result in an impaired condition, or (3) is in violation of an order or injunction, as authorized by this article, that has become final in that time to appeal has expired without appeal or a final order has been entered from which there can be no appeal, the commissioner may appoint a conservator for the association.

(b) The conservator may be the commissioner, deputy

commissioner or any other person, and upon appointment shall apply immediately to a court of general jurisdiction in the county in which the home office of the association is located for confirmation of the appointment, and the court shall have exclusive jurisdiction to determine the issues and all related matters. The proceedings shall be given precedence over other cases pending in court and shall in every way be expedited.

(c) The court shall confirm the appointment if it finds that one or more grounds exist, and a certified copy of the order of the court confirming the appointment is conclusive evidence of the appointment.

(d) The conservator shall have the power and authority provided in this division and any other power and authority that may be expressed in the order of the court.

(e) The conservator shall endeavor promptly to remedy the situations complained of by the commissioner in the application for confirmation of appointment.

(f) Within six months of the date of appointment of the conservator, or within 12 months if the court extends the six months' period, the association shall be returned to its board of directors to be managed and operated as if no conservator had been appointed, or a receiver shall be appointed as provided in Section 8250.

(g) If the commissioner or a department employee is appointed conservator no additional compensation shall be paid, but if another person is appointed then the compensation of the conservator, as determined by the court, shall be paid by the association.

(h) A certified copy of the order of the court discharging the conservator and returning the association to the directors shall be sufficient evidence of the return.

8226. Any conservator shall have all the rights, powers, and privileges possessed by the officers, directors, members and stockholders of the association.

8227. The conservator shall not retain special counsel or other experts, incur any expense other than normal operating expenses, or liquidate assets except in the ordinary course of operations.

8228 The directors and officers shall remain in office and the employees shall remain in their respective positions, but the conservator may remove any director, officer, or employee, provided the order of removal of a director or officer shall be approved in writing by the commissioner.

8229. (a) While the association is in the charge of a conservator, savings account holders, borrowers, and other obligors of the association shall continue to make payments to the association in accordance with the terms and conditions of their contracts, and the conservator may permit savings account holders to withdraw their accounts from the association pursuant to the provisions of this division or under and subject to rules and regulations that the commissioner may prescribe.

(b) The conservator shall have power to accept savings accounts

and additions to savings accounts, but any amounts received by the conservator may be segregated if the commissioner shall so order in writing. If so ordered, these amounts shall not be subject to offset and shall not be used to liquidate any indebtedness of the association existing at the time the conservator was appointed for it or any subsequent indebtedness incurred for the purposes of liquidating the indebtedness of the association existing at the time the conservator was appointed.

(c) All expenses of the association during conservatorship shall be paid by the association.

Article 6. Receivership

8250. (a) If the commissioner finds that any association (1) is in an impaired condition, (2) is engaging in practices that threaten to result in an impaired condition, or (3) is in violation of an order or injunction, as provided in the preceding article, that has become final in that the time to appeal has expired without appeal or a final order has been entered from which there can be no appeal, the commissioner may appoint a receiver for the association.

(b) The receiver may be the commissioner, deputy commissioner or any other person, and upon appointment shall apply immediately to a court of general jurisdiction in the county in which the home office of the association is located for confirmation of the appointment, and the court shall have exclusive jurisdiction to determine the issues and all related matters. The proceedings shall be given precedence over other cases pending in court, and shall in every way be expedited.

(c) The court shall confirm the appointment if it finds that one or more grounds exist, and a certified copy of the order of the court confirming the appointment is conclusive evidence of the appointment.

8251 (a) In the case of an insured association, the appointment by the commissioner of a receiver under this article shall constitute an official determination of a public authority of this state pursuant to which a receiver is appointed for the purpose of liquidation as contemplated by and within the meaning of subdivision (d) of Section 401 of the National Housing Act of 1934 (12 U.S.C., Sec. 1701 et seq.), as amended, if, within 10 days after the date the application of the commissioner is filed, confirmation of the appointment or denial of confirmation has not been issued by the court.

(b) A receiver shall have all the powers and authority of a conservator plus the power to liquidate, and shall have any other powers and authority that are expressed in the order of the court.

8252. If the commissioner or a department employee is appointed receiver, no additional compensation shall be paid, but if another person is appointed, then the compensation of the receiver, as determined by the court, shall be paid from the assets of the association.

8253. If the association is an institution insured by the Federal Savings and Loan Insurance Corporation, the Federal Savings and Loan Insurance Corporation shall be tendered appointment as receiver or coreceiver. If it accepts the appointment, it may, nevertheless, make loans on the security of or purchase at public or private sale any part or all of the assets of the association of which it is receiver or coreceiver, provided the loan or purchase is approved by the court.

CHAPTER 8. FOREIGN AND FEDERAL ASSOCIATIONS

Article 1. Foreign Associations

8500. The term "foreign association" shall include any person, firm, company, unincorporated association, fiduciary, partnership or corporation, by whatever name called, actually engaged in the business of an association, which is not organized under the provisions of this division or the laws of the United States, the home office of which is located outside the territorial limits of this state

8501. No foreign association shall do any business of an association within this state or maintain an office in this state for the purpose of doing business.

8502. The commissioner shall obtain an injunction or take any other action necessary to prevent any foreign association from doing any business of an association in this state.

8503. For the purposes of this article and any other law of this state prohibiting, limiting or regulating the doing of business in this state by foreign associations or foreign corporations of any type, any federal association the principal office of which is located outside this state, and any foreign association subject to state or federal supervision, which by law is subject to periodic examination by that supervisory authority and to a requirement of periodic audit, shall not be considered to be doing business in this state by reason of engaging in the following:

(a) Any of the activities specified in subdivision (d) of Section 191 of the Corporations Code.

(b) The advertising or solicitation of savings accounts in this state through the media of the mail, radio, television, magazines, newspapers or any other media that are published or circulated within this state, provided that the advertising or solicitation as a whole is accurate and does not create a misleading impression even though statements considered separately are literally accurate.

8504. The capital of any foreign association assigned to its business in this state, and all funds and investments of money received by any foreign association in this state or in connection with its business in this state, and all accounts and business transacted by any foreign association in this state, shall be kept separate and apart from the general business, assets, and accounts of the foreign association in the same manner as if the business of the foreign

association conducted within this state were that of a separate and independent association.

8505. The provisions of this division affecting investments, loans, issuance of savings accounts and conducting business in any respect apply to a foreign association as if the business conducted in this state were that of a separate and independent association.

8506. (a) All books, records, and papers of a foreign association pertaining to the assets and liabilities located in this state and the business transacted in this state shall be kept in an office or offices of the association in this state.

(b) Nothing in this section shall be construed to prohibit the use of centralized computer accounting and equipment.

8507. Except as expressly provided for in this article, any person who, as principal, agent, salesman, solicitor, or in any other capacity, solicits or conducts in this state the business of selling, disposing of, taking, or soliciting subscriptions for the sale of any of the stock or savings accounts of any foreign association that has not complied with all the requirements of this article, is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding five thousand dollars ($5,000), or by both fine and imprisonment.

Article 2. Federal Savings Associations

8600. (a) Every federal association and the holders of stock, shares, share accounts, savings accounts and certificate accounts issued by any federal association have all the rights, powers, and privileges, and are entitled to the same exemptions and immunities granted, respectively, to associations organized under the laws of this state and to the holders of their stock, membership accounts, and savings accounts.

(b) The provisions of this section are additional and supplemental to any provisions that, by specific reference, are applicable to federal associations and their members or stockholders.

CHAPTER 9. FEES

9000. Associations shall pay all fees required by this division to the Department of Savings and Loan.

9001. (a) Except where otherwise expressly provided, the commissioner shall prescribe by regulation the amount of each fee expressly required by the provisions of this division, including both existing provisions and provisions that are added by future enactments.

(b) The commissioner may require, and prescribe by regulation the amount of a fee not to exceed one hundred dollars ($100), for filing any application that requires the commissioner's approval where a fee is not expressly required by the provisions of this division.

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. If this bill and Senate Bill 341 are both chaptered and become effective January 1, 1984, and Senate Bill 341 adds Sections 7504, 7505, 7506, 7507, and 7508 to the Financial Code, Section 7504, as proposed to be added to the Financial Code by this bill, shall not become operative.

CHAPTER 1092

An act to amend Sections 556, 585, 805, 805.5, 1287, 1701, 2315, 2558, 2670, 2799, 2887, 2970, 3532, 3535, 4331, 4382, 4384, 4543, 5120, 5536, 5536.1, 5589, 6037, 6600, 6787, 7384, 7415, 7560, 7719, 7872, 8553, 9051.1, 9680, 9890.114, 9891.24, 9994, 10085, 10138, 10139, 10238.6, 10510, 10511, 11023, 12732, 13422, 13531, 14491, 16603, 16604, 17522, 17568, 17572, 17776, 17930, 19220, 21653, 21667, 25606, 25616, 25617, 25618, 25658, 25661, and 25665 of the Business and Professions Code, to amend Sections 1881.1, 2941.5, 2954, 2985.2, and 2985.3 of the Civil Code, to amend Sections 238, 1218, and 1576 of the Code of Civil Procedure, to amend Sections 2255, 2259, 21307, 22002, 27203, 29102, 35301, and 35302 of the Corporations Code, to amend Sections 32051, 32210, 44810, 44812, 48454, 49182, 49183, and 94336 of the Education Code, to amend Sections 3376, 3510, 5005, 5018, 5019, 5603, 5606, 5809, 9005, 17214, and 17624 of the Financial Code, to amend Sections 11036, 12002, 12003, and 12004 of the Fish and Game Code, to amend Sections 9163, 9165, 9701, 11891, 12996, 15071, 16421, 16703, 20221, 23071, 26681, 27671, 29701, 35281, 37262, 41551, 42971, 53541, 54461, 55901, 56631, 59233, 61571, 67723, and 68111 of the Food and Agricultural Code, to amend Sections 6201, 8665, 9056, 12975, 12976, 13959, 13967, 13969, 15619, 25132, 27495, 36900, 36901, and 68055.7 of, and to add Section 13960.1 to, the Government Code, to amend Sections 308, 668, and 6309.4 of the Harbors and Navigation Code, to amend Sections 1235, 1290, 1540, 1595.2, 1620, 1739, 1909, 3354, 3704, 3803, 4009, 4456, 9675, 10679, 12401, 13002, 13028, 13112, 17995, 18700, 18851, 19997, 24004, 24108, 25010, 25865, 25897, 25987, 28160, 28455, 28726, 28770, and 28862 of the Health and Safety Code, to amend Sections 657, 669, 782, 804, 833, 1043, 11146, 11161, 11164, and 11165 of the Insurance Code, to amend Sections 23, 90, 91, 354, 408, 432.7, 606, 752, 801, 853, 971, 1011, 1012, 1015, 1016, 1018, 1056, 1136, 1199, 1303, 1308, 1309, 1354, 1391, 1393, 1697, 1698.1, 1700.30, 2263, 2354, 2441, 2805, 6413.5, 6951, 6952, 6956, 7205 and 7319 of the Labor Code, to amend

Sections 145, 421, 422, 424, 1673, and 1820 of the Military and Veterans Code, to amend Sections 19, 69, 71, 74, 95, 96, 99, 100, 142, 147, 148.3, 148.4, 149, 153, 154, 158, 182, 219.2, 237, 241, 241.4, 243, 245, 249, 258, 266, 266a, 267, 270, 271, 271a, 273.6, 276, 283, 308, 310, 330, 330a, 330.1, 337.4, 351a, 374b, 374b.5, 374e, 381a, 382.5, 382.6, 383b, 384.5, 384a, 384f, 396, 415, 415.5, 474, 484b, 484g, 484h, 499b, 499c, 499d, 502, 502.7, 506b, 524, 529, 532a, 535, 536, 540, 541, 542, 543, 558.1, 560, 560.4, 593, 597k, 597(*l*), 606, 620, 623, 625b, 646, 647a, 647b, 653f, 653g, 654.3, 672, 1320, 1464, 1505, 2790, 4574, 4600, 12021, 12025, 12220, 12303, 12351, 12520, and 12560 of, to add Sections 1202.4 and 1205.5 to, and to add and repeal Section 11503 of, the Penal Code, to amend Sections 2313, 2315, 2316.5, 3236, 3754, 4166, 4299, 4601, 4656.3, 4726, 4879, 5008, 5008.7, 5782.21, and 25983 of the Public Resources Code, to amend Sections 1037, 3709, 3801, 3802, 4878, 4879, 5228, 5311, 5312, 5411, 5412, 7611, 7810, 7903, 8252, 16043, and 21407.6 of the Public Utilities Code, to amend Sections 461, 462, 6073, 7151, 9351, 9352, 12832, 30471, 30474, 32554, 32555, and 38801 of the Revenue and Taxation Code, to amend Section 30846 of the Streets and Highways Code, to amend Section 1957 of the Unemployment Insurance Code, to amend Sections 9875, 10851.5, 11520, 14601, 14601.1, 16023, 16560, 20001, 20002, 21702, 21713, 23103, 23104, 23109, 31618, 38316, 38317, 38320, 39011, 42000, 42001, 42001.7, and 42002 of the Vehicle Code, to amend Sections 309, 377, 4177, 5008, 5107, 31029, 31142, 31149, 31638 5, 35424, 55334, 60342, 71644, 71689 6, and 71689.27 of the Water Code, to amend Sections 7326, 8101 and 11483 of the Welfare and Institutions Code, and to repeal Section 2 of Chapter 116 of the Statutes of 1982, relating to criminal penalties, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 556 of the Business and Professions Code is amended to read:

556. The failure of any person mentioned in Section 551 to report, or the failure of any maternity home, hospital, or similar institution, to use the treatment prescribed in Section 551 and to record any and all cases of ophthalmia neonatorum, as directed in Section 553, or the failure or refusal of any person or institution, mentioned in this article, to obey any rule or regulation adopted by the department under this article constitutes a misdemeanor, and upon conviction thereof shall be fined, for the first offense not to exceed one hundred dollars ($100); for a second offense not to exceed two hundred dollars ($200); and for a third offense, and thereafter not to exceed four hundred dollars ($400) for each violation.

SEC. 2. Section 585 of the Business and Professions Code is amended to read:

585. Any person, company or association violating the provisions of this article is guilty of a felony and upon conviction thereof shall be punishable by a fine of not less than two thousand dollars ($2,000) nor more than six thousand dollars ($6,000), or by imprisonment in the state prison.

SEC. 3. Section 805 of the Business and Professions Code is amended to read:

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

The reporting required herein shall not act as a waiver of confidentiality of medical records and committee reports. The information reported or disclosed shall be kept confidential except as provided in subdivision (c) of Section 800, provided that a copy of the report containing the information required by this section may be disclosed as required by Section 805.5 with respect to reports received on or after January 1, 1976. The Board of Medical Quality Assurance, the Board of Osteopathic Examiners, and the Board of Dental Examiners shall disclose such reports as required by Section 805.5. A file containing reports received pursuant to this section shall be maintained by the agency receiving the reports for a minimum of five years after receipt.

Failure to make a report pursuant to this section shall be a misdemeanor punishable by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200).

SEC. 4. Section 805.5 of the Business and Professions Code is amended to read:

805.5. (a) Prior to granting or renewing staff privileges for any physician and surgeon, clinical psychologist, podiatrist, or dentist, any health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or any health care service plan or medical care foundation, or the medical staff of any such institution, shall request a report from the Board of Medical

Quality Assurance, the Board of Osteopathic Examiners, or the Board of Dental Examiners to determine if any report has been made pursuant to Section 805 indicating that the applying physician and surgeon, clinical psychologist, podiatrist, or dentist has been denied staff privileges, been removed from a medical staff, or had his staff privileges restricted as provided in Section 805. The request shall include the name and California license number of the physician and surgeon, clinical psychologist, podiatrist, or dentist. Furnishing of a copy of the 805 report shall not cause the 805 report to be a public record.

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

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

(c) Any institution described in subdivision (a) or its medical staff which violates the provisions of subdivision (a) is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200).

SEC. 5. Section 1287 of the Business and Professions Code is amended to read:

1287. Any person who violates any provision of this chapter is guilty of a misdemeanor punishable upon conviction by imprisonment in the county jail for a period not exceeding six months or by fine not exceeding one thousand dollars ($1,000) or by both.

SEC. 6. Section 1701 of the Business and Professions Code is amended to read:

1701. Any person is for the first offense guilty of a misdemeanor and shall be punishable by a fine of not less than two hundred dollars ($200) or more than three thousand dollars ($3,000), or by imprisonment in the county jail for not to exceed six months, or both, and for the second or a subsequent offense is guilty of a felony and upon conviction thereof shall be punished by a fine of not less than two thousand dollars ($2,000) nor more than six thousand dollars ($6,000), or by imprisonment in the state prison, or by both such fine and imprisonment, who:

(a) Sells or barters or offers to sell or barter any dental degree or any license or transcript made or purporting to be made pursuant to the laws regulating the license and registration of dentists.

(b) Purchases or procures by barter any such diploma, license or transcript with intent that the same shall be used in evidence of the holder's qualification to practice dentistry, or in fraud of the laws

regulating such practice.

(c) With fraudulent intent, makes or attempts to make, counterfeits or alters in a material regard any such diploma, certificate or transcript.

(d) Uses, attempts or causes to be used, any such diploma, certificate or transcript which has been purchased, fraudulently issued, counterfeited or materially altered, either as a license to practice dentistry, or in order to procure registration as a dentist.

(e) In an affidavit, required of an applicant for examination, license or registration under this chapter, willfully makes a false statement in a material regard.

(f) Practices dentistry or offers to practice dentistry as it is defined in this chapter, either without a license, or when his license has been revoked or suspended.

(g) Under any false, assumed or fictitious name, either as an individual, firm, corporation or otherwise, or any name other than the name under which he is licensed, practices, advertises or in any other manner indicates that he is practicing or will practice dentistry, except such name as is specified in a valid permit issued pursuant to Section 1701.5.

SEC. 7. Section 2315 of the Business and Professions Code is amended to read:

2315. Except as otherwise provided by law, any person found guilty of a misdemeanor for a violation of this chapter shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand two hundred dollars ($1,200) or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both such fine and imprisonment.

SEC. 8. Section 2558 of the Business and Professions Code is amended to read:

2558. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction thereof, shall be punished by imprisonment in the county jail not less than 10 days nor more than one year, or by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.

The Division of Allied Health Professions of the Board of Medical Quality Assurance may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, such rules and regulations as are reasonably necessary to carry out the provisions of this chapter.

SEC. 9. Section 2670 of the Business and Professions Code is amended to read.

2670. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000) or imprisonment in a county jail not exceeding six months, or by both.

SEC. 10. Section 2799 of the Business and Professions Code is amended to read:

2799. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and upon a conviction thereof shall be punished by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 11. Section 2887 of the Business and Professions Code is amended to read:

2887. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and upon a conviction thereof shall be punished by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 12. Section 2970 of the Business and Professions Code is amended to read:

2970. Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand dollars ($2,000), or by both.

SEC. 13. Section 3532 of the Business and Professions Code is amended to read:

3532. Any person who violates Section 3502, 3503, 3515, or 3516 shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 14. Section 3535 of the Business and Professions Code is amended to read:

3535. Notwithstanding any provision of law, physicians and surgeons licensed by the Board of Osteopathic Examiners may employ physician's assistants provided·

(a) Each physician's assistant so employed is a graduate of an approved program and is certified by the Physician's Assistant Examining Committee.

(b) The scope of practice of the physician's assistant shall be the same as that which is approved by the Division of Allied Health Professions of the Board of Medical Quality Assurance for physicians and surgeons supervising physician's assistants in the same or a similar specialty.

(c) The supervising physician is approved by the Board of Osteopathic Examiners. The Board of Osteopathic Examiners may deny an application, or suspend or revoke or impose probationary conditions upon any osteopathic physician and surgeons approved to supervise any physician's assistant in any decision made after a hearing as provided in Section 3528.

(d) Any physician's assistant certified by the committee shall be eligible for employment by any physician approved by the Board of Osteopathic Examiners; except that no physician shall supervise more than two physician's assistants. The Board of Osteopathic

Examiners may restrict physicians to supervising specific types of physician's assistants including, but not limited to, restricting physicians from supervising physician's assistants outside of the physician's field of specialty.

(e) Each physician desiring to supervise a physician's assistant under this section shall file a separate application. An application fee of ten dollars ($10) shall be charged to each physician applicant for each application. An approved fee of fifty dollars ($50) shall be charged to each physician upon approval of an application to supervise physician's assistants. The Board of Osteopathic Examiners shall renew approval to supervise physician's assistants upon application for such renewal. A fee of twenty-five dollars ($25) shall be paid for such renewal.

(f) Any person who violates subdivision (a), (b), (c), or (d) of this section shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000) or by both.

SEC. 15. Section 4331 of the Business and Professions Code is amended to read:

4331. All prescriptions filled shall be kept on file and open for inspection by duly constituted authorities for a period of at least three years, and any person who willfully fails to do so is guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not exceeding one hundred dollars ($100), and for each subsequent offense shall be liable to a fine of not less than one hundred dollars ($100), and not more than two hundred dollars ($200).

SEC. 16. Section 4382 of the Business and Professions Code is amended to read:

4382. (a) Any person who knowingly violates any of the provisions of this chapter, when no other penalty is provided, is guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine of not less than one hundred dollars ($100), and not more than one thousand dollars ($1,000), or by imprisonment of not less than 30 days or exceeding six months, or by both such fine and imprisonment.

(b) In all other instances, any person who violates any of the provisions of this chapter, when no other penalty is provided, is guilty of an infraction, and upon conviction thereof may be punishable by a fine not to exceed five hundred dollars ($500)

SEC. 17. Section 4384 of the Business and Professions Code is amended to read.

4384 Any person who attempts to secure or secures registration for himself or any other person under this chapter by making or causing to be made any false representations, or who fraudulently represents himself to be registered, is guilty of a misdemeanor, and upon conviction thereof shall be liable to punishment by a fine not exceeding two hundred dollars ($200), or by punishment for a term not exceeding 50 days, or by both such fine and imprisonment.

SEC. 18. Section 4543 of the Business and Professions Code is amended to read:

4543. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor and upon a conviction thereof shall be punished by imprisonment in the county jail for not less than 10 days nor more than one year, or by a fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 19. Section 5120 of the Business and Professions Code is amended to read:

5120. Any person who violates any of the provisions of Article 3 (commencing with Section 5050) is guilty of a misdemeanor, punishable by imprisonment for not more than six months, or by a fine of not more than one thousand dollars ($1,000), or both.

Whenever the board has reason to believe that any person is liable to punishment under this article, the board or with its approval any administrative committee, may certify the facts to the appropriate enforcement officer of the city or county where the alleged violation had taken place and the officer may cause appropriate proceedings to be brought.

SEC. 20. Section 5536 of the Business and Professions Code is amended to read:

5536. (a) It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for any person who does not hold a certificate to engage in the practice of architecture issued under this chapter, to practice architecture in this state or to use any term confusingly similar to the word architect, or to advertise or put out any sign or card or other device which might indicate to the public that he is an architect or that he is qualified to engage in the practice of architecture or is an architectural designer.

(b) Nothing contained in this section prohibits the use, in any advertisement, sign, card, or other device, of the term "building designer" if such person is registered as a building designer under this chapter.

SEC. 21. Section 5536.1 of the Business and Professions Code is amended to read:

5536.1. It is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment, for any person not registered to practice building design or without a certificate to practice architecture, to practice building design as defined in this chapter, to use any term confusingly similar to that of building designer or to advertise, or put out any sign or card or other device which might indicate to the public that he is a building designer, or that he is qualified to engage in the practice of building design.

SEC. 22. Section 5589 of the Business and Professions Code is

amended to read:

5589. Every settlement or arbitration award in excess of five thousand dollars ($5,000) of a claim or action for damages caused by the certificate holder's fraud, deceit, negligence, incompetency or recklessness in practice when the certificate holder does not possess professional liability insurance as to such claim shall, within 30 days after any settlement agreement has been consented to by the certificate holder or 30 days after service of such arbitration award on the parties, be reported to the board. A complete report shall be made by appropriate means by the certificate holder or his counsel, with a copy of such communication to be sent to the claimant through his counsel if he is so represented, or directly if he is not. If, within 45 days of the conclusion of such settlement agreement or service of such arbitration award on the parties, counsel for the claimant, or if he is not represented by counsel, the claimant himself, has not received a copy of the report, he shall himself make such a complete report. Failure of the certificate holder or claimant or, if represented by counsel, their counsel, to comply with the provisions of this section shall be a misdemeanor punishable by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000). Knowing and intentional failure to comply with the provisions of this section, or conspiracy or collusion not to comply with the provisions of this section, or to hinder or impede any other person in such compliance shall be a misdemeanor punishable by a fine of not less than ten thousand dollars ($10,000) nor more than one hundred thousand dollars ($100,000).

SEC. 23. Section 6037 of the Business and Professions Code is amended to read:

6037. No action or decision of the board or committee of the board shall be invalid because of the participation therein by a member or members in violation of Section 6036. However, any member who intentionally violates the provisions of subdivision (a) of Section 6036 is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding five days, or by a fine not exceeding one thousand dollars ($1,000), or by both, and, if the member is an attorney member of the board, a certified copy of the record of conviction shall be transmitted to the Supreme Court for disposition as provided in Sections 6101 and 6102. Upon entry of final judgment of conviction, the member's term of office on the board of governors, and duties and authority incidental thereto, shall automatically terminate. Any member who intentionally violates the provisions of subdivision (b) of Section 6036 shall be liable for a civil penalty not to exceed five hundred dollars ($500) for each violation, which shall be assessed and recovered in a civil action in a court of competent jurisdiction brought in the name of the state only by a district attorney of a county in which the member resides or maintains offices and the penalty collected shall be paid to the treasurer of that county.

SEC. 24. Section 6600 of the Business and Professions Code is

amended to read:

6600. Unless otherwise expressly provided, any violation of this chapter is a misdemeanor punishable upon conviction by a fine of not less than fifty dollars ($50) nor more than four hundred dollars ($400).

SEC 25. Section 6787 of the Business and Professions Code is amended to read.

6787 Every person is guilty of a misdemeanor and for each offense of which he is convicted is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment not to exceed three months, or by both fine and imprisonment·

(a) Who, unless he is exempt from registration under this chapter, practices or offers to practice civil, electrical or mechanical engineering in this state according to the provisions of this chapter without legal authorization.

(b) Who presents or attempts to file as his own the certificate of registration of another.

(c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration.

(d) Who impersonates or uses the seal of any other practitioner.

(e) Who uses an expired or revoked certificate of registration.

(f) Who shall represent himself as, or use the title of, registered civil, electrical or mechanical engineer, or any other title whereby such person could be considered as practicing or offering to practice civil, electrical or mechanical engineering in any of its branches, unless he is correspondingly qualified by registration as a civil, electrical or mechanical engineer under this chapter.

(g) Who, unless appropriately registered, manages, or conducts as manager, proprietor, or agent, any place of business from which civil, electrical or mechanical engineering work is solicited, performed or practiced.

(h) Who uses the title, or any combination of such title, of "professional engineer," "registered engineer," "chemical engineer," "civil engineer," "electrical engineer," "industrial engineer," "mechanical engineer," "metallurgical engineer," "petroleum engineer," "structural engineer," or "engineer-in-training," or the titles in such other branches as the board may establish, or who makes use of any abbreviation of such title which might lead to the belief that he is a registered engineer, without being registered as required by this act.

(i) Who uses the title "consulting engineer" without being registered as required by this act or without being authorized to use such title pursuant to legislation enacted at the 1963, 1965 or 1968 Regular Session.

(j) Who violates any provision of this chapter.

SEC. 26 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 fifty dollars ($50) nor more than four hundred dollars ($400) or by imprisonment for a term of not less than 50 nor more than 180 days, or by both such fine and imprisonment.

SEC. 27. Section 7415 of the Business and Professions Code is amended to read:

7415. Any licensee who uses any X-ray appliance, apparatus or machine in the treatment of any human being or for the purpose of or with the intent to remove superfluous hair from the face or body of any human being, or who applies to any human being a solution of phenol greater than 10 percent, or corrosive sublimate (mercury) or any of its preparations, derivatives, or compounds in a solution greater than one in five hundred, is guilty of a misdemeanor punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by imprisonment in the county jail for a term of not less than 50 nor more than 180 days, or by both such fine and imprisonment.

SEC. 28. Section 7560 of the Business and Professions Code is amended to read:

7560. Any person who knowingly falsifies the fingerprints or photographs submitted under subdivision (f) of Section 7525 is guilty of a felony. Any person who violates any of the other provisions of this chapter is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

SEC. 29. Section 7719 of the Business and Professions Code is amended to read:

7719. Every person guilty of a misdemeanor under the provisions of this chapter, shall, upon conviction thereof, be punished by imprisonment in the county jail for not more than six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 30. Section 7872 of the Business and Professions Code is amended to read:

7872. Every person is guilty of a misdemeanor and for each offense of which he is convicted is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment not to exceed three months, or by both fine and imprisonment:

(a) Who, unless he is exempt from registration under this chapter, practices or offers to practice geology or geophysics for others in this state according to the provisions of this chapter without legal

authorization.

(b) Who presents or attempts to file as his own the certificate of registration of another.

(c) Who gives false evidence of any kind to the board, or to any member thereof, in obtaining a certificate of registration.

(d) Who impersonates or uses the seal of any other practitioner.

(e) Who uses an expired or revoked certificate of registration.

(f) Who shall represent himself as, or use the title of, registered geologist, or any other title whereby such person could be considered as practicing or offering to practice geology for others, unless he is qualified by registration as a geologist under this chapter, or who shall represent himself as, or use the title of, registered geophysicist, or any other title whereby such person could be considered as practicing or offering to practice geophysics for others, unless he is qualified by registration as a geophysicist under this chapter.

(g) Who manages, or conducts as manager, proprietor, or agent, any place of business from which geological or geophysical work is solicited, performed or practiced for others, unless such geological work is supervised or performed by a registered geologist, or unless such geophysical work is supervised or performed by a registered geophysicist or geologist.

(h) Who violates any provision of this chapter.

SEC. 31. Section 8553 of the Business and Professions Code is amended to read:

8553. Any person who violates any provision of this chapter, or who conspires with another person to violate any provision of this chapter, is guilty of a misdemeanor, and is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

SEC. 32. Section 9051.1 of the Business and Professions Code is amended to read:

9051.1. Any person who violates any provision of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding a period of six months, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 33. Section 9680 of the Business and Professions Code is amended to read:

9680. It is a misdemeanor, punishable by a fine not exceeding one hundred dollars ($100) for each offense, for any person, whether obligor, escrowholder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this article who is not known to be or who does not present evidence to such payor that he is a licensed cemetery broker at the time such compensation is earned.

For violation of any of the provisions of this section, the board may temporarily suspend or permanently revoke the license of the cemetery licensee in accordance with the provisions of this act relating to disciplinary proceedings.

SEC. 34. Section 9890.114 of the Business and Professions Code is amended to read:

9890.114. Any person or agent or officer thereof who violates any provision of this chapter is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisonment for a period of not more than 60 days, or both such fine and imprisonment.

SEC. 35. Section 9891.24 of the Business and Professions Code is amended to read:

9891.24. (a) On and after April 16, 1983, it shall be unlawful for any person to be a tax preparer or tax interviewer associated with a tax preparer unless the tax preparer has submitted to the administrator a letter of intent to register. The letter of intent shall include the following information for the tax preparer and each tax interviewer associated with the tax preparer: the name, address, telephone number and social security number of each such person. The letter shall be accompanied by a bond as required by Article 4 (commencing with Section 9891.35) and a fee of twenty-five dollars ($25) for each tax preparer and each tax interviewer. The provisions of this subdivision shall permit unregistered practice as a tax preparer or tax interviewer only until November 1, 1983.

(b) On and after November 1, 1983, it shall be unlawful for any person to be a tax preparer or tax interviewer unless he or she is registered in accordance with the provisions of this chapter.

(c) Any person who violates this section is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or jail for a period of not more than 60 days, or both, for each violation of this section.

SEC. 36. Section 9994 of the Business and Professions Code is amended to read:

9994. Any person, or agent or officer thereof, who violates any provision of this chapter is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisonment for a period of not more than 60 days, or both.

SEC. 37. Section 10085 of the Business and Professions Code is amended to read:

10085. The commissioner may require that any or all materials used in obtaining advance fee agreements, including but not limited to the contract forms, letters or cards used to solicit prospective sellers, and radio and television advertising be submitted to him at least five days before they are used. Should the commissioner determine that any such matter, when used alone or with any other matter, would tend to mislead he may, within five days of the date he receives same, order that it not be used, disseminated, nor published. Any person using, disseminating, or publishing any matter which the commissioner has ordered, pursuant to this section, not to be used, published, or disseminated shall be guilty of 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 each such use, dissemination, or publication.

The commissioner may determine the form of the advance fee agreements, and all material used in soliciting prospective owners and sellers shall be used in the form and manner which he determines is necessary to carry out the purposes and intent of this part.

Any violation of any of the provisions of this part or of the rules, regulations, orders or requirements of the commissioner thereunder shall constitute grounds for disciplinary action against a licensee, or for proceedings under Section 10081 of this code, or both. These sanctions are in addition to the criminal proceedings hereinbefore provided.

SEC. 38. Section 10138 of the Business and Professions Code is amended to read:

10138. It is a misdemeanor, punishable by a fine of not exceeding one hundred dollars ($100) for each offense, for any person, whether obligor, escrowholder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this chapter, who is not known to be or who does not present evidence to such payor that he is a regularly licensed real estate broker at the time such compensation is earned.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the real estate licensee in accordance with the provisions of this part relating to hearings.

SEC. 39. Section 10139 of the Business and Professions Code is amended to read:

10139. Any person acting as a real estate broker or real estate salesman without a license or who advertises using words indicating that he is a real estate broker without being so licensed shall, upon conviction thereof, if a natural person, be punished by a fine of not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment in the discretion of the court; or if a corporation, be punished by a fine of not to exceed ten thousand dollars ($10,000).

SEC. 40. Section 10238.6 of the Business and Professions Code is amended to read:

10238.6. Any person who does any of the following acts is guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment in the state prison, or in a county jail not exceeding one (1) year or by both such fine and imprisonment.

(a) In any application to the commissioner or in any proceeding before him, or in any examination, audit or investigation made by him or on his authority, knowingly makes any false statement or representation, or, with knowledge of its falsity, files or causes to be filed in the office of the commissioner any false statement or

representation in a required report.

(b) Issues, circulates or publishes, or causes to be issued, circulated or published any advertisement, pamphlet, prospectus or circular concerning any real property security which contains any statement that is false or misleading, or otherwise likely to deceive a reader thereof, with knowledge that it contains such false, misleading or deceptive statement.

(c) In any respect willfully violates or fails to comply with any provision of this article, or willfully violates or fails, omits or neglects to obey, observe or comply with any order, decision, demand, requirement or permit, or any part or provisions thereof, of the commissioner under this article.

(d) With one or more other persons, conspires to violate any permit or order issued by the commissioner of any provision of this article.

SEC. 41. Section 10510 of the Business and Professions Code is amended to read:

10510. It is a misdemeanor, punishable by a fine of not exceeding one hundred dollars ($100) for each offense, for any person, whether obligor, escrowholder or otherwise, to pay or deliver to anyone a compensation for performing any of the acts within the scope of this chapter, who is not known to be or who does not present evidence to such payor that he is a regularly licensed mineral, oil and gas broker at the time such compensation is earned.

For a violation of any of the provisions of this section, the commissioner may temporarily suspend or permanently revoke the license of the mineral, oil and gas licensee in accordance with the provisions of this part relating to hearings.

SEC. 42. Section 10511 of the Business and Professions Code is amended to read:

10511. Any person acting as a mineral, oil and gas broker without a license shall, upon conviction thereof, if a natural person, be punished by a fine of not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a term not to exceed six months, or by both such fine and imprisonment in the discretion of the court; or if a corporation, be punished by a fine of not to exceed ten thousand dollars ($10,000).

SEC. 43. Section 10512 of the Business and Professions Code is amended to read:

10512. Every officer, agent or employee of any company, and every other person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circularization of any false statement or representation concerning any mineral, oil or gas property, or, if the mineral, oil or gas property is owned by the state or federal government, which such person offers to assist another or others to file an application for the purchase or lease of, or to locate or enter upon, and every person who, with knowledge that any advertisement, pamphlet, prospectus or letter concerning any mineral, oil or gas property or any written statement that is false or

fraudulent, issues, circulates, publishes or distributes the same, or causes the same to be issued, circulated, published or distributed, or who in any other respect willfully violates or fails, omits, or neglects to obey, observe or comply with any order, permit, decision, demand or requirement of the commissioner under the provisions of this part relating to mineral, oil and gas brokerage, is guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for a term not to exceed six months, or by a fine of not to exceed one thousand dollars ($1,000), and, if a mineral, oil and gas licensee, he shall be held to trial by the commissioner for a suspension or revocation of his mineral, oil and gas license, as provided in the provisions of this part relating to hearings. It shall be the duty of the district attorney of each county in this state to prosecute all violations of the provisions of this section in respective counties in which the violations occur.

SEC 44. Section 11023 of the Business and Professions Code is amended to read:

11023. Any person who violates any of the provisions of Section 11010, or Section 11010.1, or Section 11013.1, or Section 11013.2, or Section 11013.4 or Section 11018.2, or Section 11019, or Section 11022 or Section 11018.7 of this code shall be guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment in the state prison, or in the county jail not exceeding one (1) year, or by both such fine and imprisonment.

SEC. 45. Section 12732 of the Business and Professions Code is amended to read:

12732. (a) Any person who violates any of the provisions of this chapter is guilty of a misdemeanor

(b) Notwithstanding subdivision (a), a violation by vehicles hauling bulk tomatoes, that does not exceed 50 percent of the tolerance provided by department regulations adopted pursuant to Section 12727 of the Business and Professions Code, shall be an infraction. Every person convicted of an infraction for a violation of this section shall be punished upon first conviction by a fine not exceeding one hundred dollars ($100); for a second conviction within a period of one year by a fine not exceeding two hundred dollars ($200); and for a third or subsequent conviction within a period of one year by a fine not exceeding five hundred dollars ($500).

SEC. 46. Section 13422 of the Business and Professions Code is amended to read:

13422. A violation of this article is an infraction punishable by a fine not to exceed one hundred dollars ($100).

SEC. 47. Section 13531 of the Business and Professions Code is amended to read:

13531. (a) Every person offering for sale or selling any gasoline or other motor vehicle fuel to the public from any place of business in the State of California shall post or display on such premises a sign or statement or other advertising medium which indicates or shows or advertises the price of the three major grades of gasoline or motor vehicle fuel sold, offered for sale, or advertised for sale from such

place of business. Such sign shall be clearly visible from the street or highway adjacent to such premises carrying the highest traffic volume. Where the place of business offering for sale or selling gasoline or other motor vehicle fuel is situated at an intersection of streets, such sign shall be double faced and clearly visible from the two streets of the intersection adjacent to the premises, unless, prior to January 1, 1981, an ordinance of the city or county in which the place of business is located prohibited signs at such locations, in which case signs shall be posted which are clearly visible from each street of the intersection adjacent to the premises.

The size and height of letters and numerals utilized in such advertising medium shall be as specified in Section 13531.5 and in all other respects shall conform to the requirements of this article.

For the purposes of this subdivision "motor vehicle fuel" does not include propane.

(b) The governing body of any city, county, or city and county may, by ordinance, exempt specified geographic areas from the provisions of this section if, pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 of the Government Code, the areas are designated on the local general plan as scenic corridors or historic preservation areas.

(c) (1) Except as provided in paragraph (2), any person who violates the provisions of subdivision (a) is guilty of an infraction and, upon conviction, is punishable by a fine not to exceed five hundred dollars ($500).

(2) Any person who violates the provisions of subdivision (a) and who has been previously convicted two or more times of a violation of subdivision (a) is guilty of a misdemeanor and, upon conviction, is punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both.

(d) Notwithstanding the provisions of Section 13590, the district attorney of each county or, pursuant to Section 41803.5 of the Government Code, the city attorney of any general law city or chartered city within each county, or the county sealer shall, upon complaint or upon his or her own motion, enforce the provisions of this section and, in addition, may bring an action for injunctive relief in accordance with the provisions of Section 13611.

SEC. 48. Section 14491 of the Business and Professions Code is amended to read:

14491. The violation of any of the provisions of this article is a misdemeanor, except that if the violation consists of unlawfully using, selling, or secreting in any place supplies of a value exceeding four hundred dollars ($400), the violation is a felony.

SEC. 49. Section 16603 of the Business and Professions Code is amended to read:

16603. Every person who, as a condition to a sale or consignment of any magazine, book, or other publication requires that the purchaser or consignee purchase or receive for sale any horror comic

book, is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both.

This section is not intended to prohibit an agreement requiring a person to purchase or accept on consignment a minimum number of copies of a single edition or issue of a magazine or of a particular book or other particular publication.

As used in this section "person" includes a corporation, partnership, or other association.

As used in this section "horror comic book" means any book or booklet in which an account of the commission or attempted commission of the crime of arson, assault with caustic chemicals, assault with a deadly weapon, burglary, kidnapping, mayhem, murder, rape, robbery, theft, or voluntary manslaughter is set forth by means of a series of five or more drawings or photographs in sequence, which are accompanied by either narrative writing or words represented as spoken by a pictured character, whether such narrative words appear in balloons, captions or on or immediately adjacent to the photograph or drawing.

SEC. 50. Section 16604 of the Business and Professions Code is amended to read:

16604. Every person who, as a condition to a sale or consignment of any magazine, book, or other publication, requires that the purchaser or consignee purchase or receive for sale any other magazine, book, or other publication is guilty of a misdemeanor, punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both such imprisonment and such fine.

This section is not intended to prohibit an agreement requiring a person to purchase or accept on consignment a minimum number of copies of a single edition or issue of a magazine or of a particular book or other particular publication.

As used in this section, "person" includes a corporation, partnership, or other association.

This section does not apply with respect to any contract relating exclusively to the sale or consignment of any newspaper of general circulation as defined by Section 6000 of the Government Code.

SEC. 51. Section 17522 of the Business and Professions Code is amended to read:

17522. No goods or articles which are determined by label, symbol, trade name, or name of the manufacturer to indicate that they are made by blind workers shall be delivered or offered by any person, partnership, firm, corporation, institution, or association, for sale in this state unless at least 75 percent of the total hours of direct labor of producing such goods or articles purported to be made by the blind shall have been performed by the blind. No goods or articles which do not have a label, symbol, or other printed matter indicating that at least 75 percent of the total hours of direct labor of producing such goods or articles were made by the blind, as herein

defined, shall be offered for sale directly or indirectly as being made by the blind unless such goods or articles were in fact so made by the blind as herein defined.

Any violation of this section is a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment in the county jail for not more than one year, or by both the fine and imprisonment, and any such violation or threatened violation shall be actionable under Section 17535 of this chapter.

SEC. 52. Section 17568 of the Business and Professions Code is amended to read:

17568. Any person violating the provisions of this article is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) or by imprisonment of not less than 10 days nor more than six months, or by both such fine and imprisonment.

SEC. 53. Section 17572 of the Business and Professions Code is amended to read:

17572. Any person who violates this article is guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed six months, or a fine of not to exceed one thousand dollars ($1,000), or by both, for each violation.

SEC. 54. Section 17776 of the Business and Professions Code is amended to read:

17776. Any merchant who has issued to his customers or other persons the trading stamps of any licensee under this chapter, and who proposes to discontinue or does discontinue the issuance of the stamps of such licensee for any reason whatsoever, shall post a notice at every place in his establishment at which such stamps were or are issued, in letters equal at least in size to 18-point type, containing at least the following information:

(a) The fact that such stamps will no longer be issued by the merchant and the date of discontinuance of issuance.

(b) The name and address in this state, of the licensee under this chapter, who is responsible for the redemption of such stamps.

(c) The fact that the licensee is licensed by the Commissioner of Corporations of the State of California and has posted a bond with the commissioner to assure the redemption of such stamps upon presentation to the licensee.

(d) The fact that the stamps are redeemable either in goods, wares, merchandise, or in cash, good and lawful money of the United States, at the option of the stampholder, and stating the cash redemption value of each stamp, and that it is necessary for the holder to present trading stamps in an amount aggregating not less than one dollar ($1) for redemption in cash.

The notice required by this section shall be posted within at least seven days from the date on which the issuance of such stamps is discontinued and shall remain posted for 30 days.

Any person who violates this section is guilty of a misdemeanor and is punishable by imprisonment in the county jail not exceeding six

months, or by fine not exceeding one thousand dollars ($1,000), or both.

SEC. 55. Section 17930 of the Business and Professions Code is amended to read:

17930. Any person who executes, files, or publishes any statement under this chapter, knowing that such statement is false, in whole or in part, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000).

SEC. 56. Section 19220 of the Business and Professions Code is amended to read.

19220. Every person who violates any of the provisions of this chapter is guilty of a misdemeanor and punishable for each offense by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for not less than three nor more than six months or by both such fine and imprisonment.

SEC. 57. Section 21653 of the Business and Professions Code is amended to read·

21653. Every junk dealer or secondhand dealer who resells any item acquired in violation of Section 21652 is guilty of a felony, if the value of the item exceeds four hundred dollars ($400), and is guilty of a misdemeanor if the value of the item does not exceed four hundred dollars ($400).

SEC. 58. Section 21667 of the Business and Professions Code is amended to read:

21667. A violation of any provision of this article, except subdivision (b) of Section 21666, is a misdemeanor and may be punishable by up to six months in county jail, a fine of fifty dollars ($50) for the first violation, one hundred dollars ($100) for the second violation, and two hundred dollars ($200) for the third and subsequent violations.

SEC. 59. Section 25606 of the Business and Professions Code is amended to read:

25606. It is unlawful for any person to use any automobile or other vehicle to conceal, convey, carry, or transport any alcoholic beverages which are subject to seizure under this division, or any stills or parts thereof subject to seizure under this division, or any materials or supplies capable of and intended for use in the manufacture or production of alcoholic beverages with the design to evade the excise taxes or license fees imposed by this division. This section does not apply to any person who uses an automobile or other vehicle to transport distilled spirits for lawful use in the trades, professions, or industries. Any person violating the provisions of this section is guilty of a misdemeanor and shall be punished by a fine of not more than 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.

The department may seize any automobile or other vehicle used

contrary to the provisions of this section.

SEC. 60. Section 25616 of the Business and Professions Code is amended to read:

25616. Any person who knowingly or willfully files a false license fee report with the department, and any person who refuses to permit the department or any of its representatives to make any inspection or examination for which provision is made in this division, or who fails to keep books of account as prescribed by the department, or who fails to preserve such books for the inspection of the department for such time as the department deems necessary, or who alters, cancels, or obliterates entries in such books of account for the purpose of falsifying the records of sales of alcoholic beverages made under this division is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than one month nor more than six months, or by both such fine and imprisonment.

SEC. 61. Section 25617 of the Business and Professions Code is amended to read:

25617. Every person convicted for a violation of any of the provisions of this division for which another penalty or punishment is not specifically provided for in this division is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

SEC. 62. Section 25618 of the Business and Professions Code is amended to read:

25618. Every person convicted of a felony for a violation of any of the provisions of this division for which another punishment is not specifically provided for in this division shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment in the state penitentiary for not less than one year nor more than five years, or by both such fine and imprisonment.

SEC. 63. Section 25658 of the Business and Professions Code is amended to read:

25658. (a) Every person who sells, furnishes, gives, or causes to be sold, furnished, or given away, any alcoholic beverage to any person under the age of 21 years is guilty of a misdemeanor.

(b) Any person under the age of 21 years who purchases any alcoholic beverage, or any person under the age of 21 years who consumes any alcoholic beverage in any on-sale premises, is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200), no part of which shall be suspended.

(c) Any on-sale licensee who knowingly permits a person under the age of 21 years to consume any alcoholic beverage in the on-sale premises, whether or not the licensee has knowledge that the person is under the age of 21 years, is guilty of a misdemeanor.

SEC. 64. Section 25661 of the Business and Professions Code is amended to read:

25661. Any person under the age of 21 years who presents or offers to any licensee, his agent or employee, any written, printed, or photostatic evidence of age and identity which is false, fraudulent or not actually his own for the purpose of ordering, purchasing, attempting to purchase or otherwise procuring or attempting to procure, the serving of any alcoholic beverage, or who has in his possession any false or fraudulent written, printed, or photostatic evidence of age and identity, is guilty of a misdemeanor and shall be punished by a fine of at least two hundred dollars ($200), no part of which shall be suspended.

SEC. 65. Section 25665 of the Business and Professions Code is amended to read

25665. Any licensee under an on-sale license issued for public premises, as defined in Section 23039, who permits a person under the age of 21 years to enter and remain in the licensed premises without lawful business therein is guilty of a misdemeanor. Any person under the age of 21 years who enters and remains in the licensed public premises without lawful business therein is guilty of a misdemeanor and shall be punished by a fine of not less than two hundred dollars ($200), no part of which shall be suspended.

SEC. 66. Section 1881.1 of the Civil Code is amended to read:

1881.1. A seller who shall willfully fail to comply with the requirements of notice and posting as provided for in Section 1880.2 or in Section 1880.7 shall be guilty of a misdemeanor and punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both. No sale of grain shall be invalidated by reason of any lack or irregularity in connection with such notice or posting.

SEC. 67. Section 2941.5 of the Civil Code is amended to read:

2941.5. Every person who violates Section 2941 is guilty of a misdemeanor punishable by fine of not less than fifty dollars ($50) nor more than four hundred dollars ($400), or by imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment.

SEC. 68. 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 fifty dollars ($50) nor more than two hundred dollars ($200).

(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. 69. Section 2985.2 of the Civil Code is amended to read:

2985.2. Any person, or the assignee of such person, who sells a parcel of land under a sales contract which is not recorded and who thereafter causes an encumbrance or encumbrances not consented to in writing by the parties upon such property in an amount which, together with existing encumbrances thereon exceeds the amount then due under the contract, or under which the aggregate amount of any periodic payments exceeds the periodic payments due on the contract, excluding any pro rata amount for insurance and taxes, shall be guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 70. Section 2985.3 of the Civil Code is amended to read:

2985.3. Every seller of improved or unimproved real property under a real property sales contract, or his assignee, who knowingly receives an installment payment from the buyer under a real property sales contract at a time when there is then due any payment by the seller, or his assignee, on an obligation secured by an encumbrance on the property subject to the real property sales contract, and who appropriates such payment received from the buyer to a use other than payment of the amount then due on the seller's or assignee's obligation, except to the extent the payment received from the buyer exceeds the amount due from the seller or assignee, is guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 71. Section 238 of the Code of Civil Procedure is amended to read:

238. Any trial juror summoned, who willfully and without reasonable excuse fails to attend, may be attached and compelled to attend; and the court may also impose a fine not exceeding one hundred dollars ($100), upon which execution may issue. If the trial juror was not personally served, the fine shall not be imposed until upon an order to show cause an opportunity has been offered the trial juror to be heard.

SEC. 72. Section 1218 of the Code of Civil Procedure is amended to read:

1218. Upon the answer and evidence taken, the court or judge must determine whether the person proceeded against is guilty of the contempt charged, and if it be adjudged that he is guilty of the contempt, a fine may be imposed on him not exceeding one thousand dollars ($1,000), or he may be imprisoned not exceeding five days, or both.

No party, who is in contempt of a court order or judgment in a divorce or separate maintenance action, shall be permitted to enforce such order or judgment, by way of execution or otherwise, either in the same action or by way of a separate action, against the other party. This restriction shall not affect nor apply to the enforcement of child support orders.

SEC. 73. Section 1576 of the Code of Civil Procedure is amended to read:

1576. (a) Any person who willfully fails to render any report or perform other duties required under this chapter shall be punished by a fine of twenty dollars ($20) for each day such report is withheld or such duty is not performed, but not more than two thousand dollars ($2,000).

(b) Any person who willfully refuses to pay or deliver escheated property to the State Controller as required under this chapter shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or imprisonment for not more than six months, or both.

SEC. 74. Section 2255 of the Corporations Code is amended to read:

2255. (a) Every director, officer or agent of any corporation, domestic or foreign, who knowingly receives or acquires possession of any property of the corporation, otherwise than in payment of a just demand, and, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of the corporation is guilty of a public offense.

(b) Every director, officer, agent or shareholder of any corporation, domestic or foreign, who, with intent to defraud, destroys, alters, mutilates or falsifies any of the books, papers, writings or securities belonging to the corporation or makes or concurs in omitting to make any material entry in any book of accounts or other record or document kept by the corporation is guilty of a public offense.

(c) Each public offense specified in this section is punishable by imprisonment in a state prison, or by imprisonment in a county jail for not exceeding one year, or a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 75. Section 2259 of the Corporations Code is amended to read.

2259. Any person who transacts intrastate business on behalf of a foreign corporation which is not authorized to transact such business in this state, knowing that it is not so authorized, is guilty of a misdemeanor punishable by fine of not less than fifty dollars ($50)

nor more than six hundred dollars ($600).

SEC. 76. Section 21307 of the Corporations Code is amended to read:

21307. Any person who willfully wears, exhibits, or uses for any purpose a name or insignia registered under this chapter, unless he is entitled to use, wear, or exhibit the name or insignia under the constitution, bylaws, or rules of the association which registered it, is guilty of a misdemeanor punishable by fine of not to exceed two hundred dollars ($200) or by imprisonment in the county jail for a period not to exceed 60 days.

SEC. 77. Section 22002 of the Corporations Code is amended to read:

22002. (a) Every director, officer, or agent of any joint stock association, who knowingly receives or possesses himself of any property of the association, otherwise than in payment of a just demand, and, with intent to defraud, omits to make, or to cause or direct to be made, a full and true entry thereof in the books or accounts of the association, is guilty of a public offense.

(b) Every director, officer, agent, or member of any joint stock association who, with intent to defraud, destroys, alters, mutilates, or falsifies any of the books, papers, writings, or securities belonging to the association, or makes or concurs in making any false entries, or omits or concurs in omitting to make any material entry in any book of accounts or other record or document kept by the association, is guilty of a public offense.

(c) Each public offense specified in this section is punishable by imprisonment in a state prison, or by imprisonment in a county jail not exceeding one year, or a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 78. Section 27203 of the Corporations Code is amended to read:

27203. Every individual who knowingly violates any provision of this division, or any condition of any certificate issued under this division, is guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 79. Section 29102 of the Corporations Code is amended to read:

29102. The felonies specified in this chapter are punishable, for each offense, if the offender is a corporation, by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or, if the offender is not a corporation, by imprisonment in a state prison or by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both such imprisonment and fine.

SEC. 80. Section 35301 of the Corporations Code is amended to read:

35301. Any officer or member of the board of directors, board of

trustees, executive committee, or other similar governing body of a subversive organization who violates any provision of this title, or permits or acquiesces in the violation of any provision of this title by the organization is guilty of a felony punishable by fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000), or by imprisonment in a state prison, or by both.

SEC. 81. Section 35302 of the Corporations Code is amended to read:

35302. Any person who becomes or remains a member of any subversive organization, or attends a meeting thereof, with knowledge that the organization has failed to comply with any provision of this title, is guilty of a misdemeanor punishable by fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not less than 10 days nor more than one year, or by both.

SEC. 82. Section 32051 of the Education Code is amended to read.

32051. No student, or other person in attendance at any public, private, parochial, or military school, community college, college, or other educational institution, shall conspire to engage in hazing, participate in hazing, or commit any act that causes or is likely to cause bodily danger, physical harm, or personal degradation or disgrace resulting in physical or mental harm to any fellow student or person attending the institution.

The violation of this section is a misdemeanor, punishable by a fine of not less than one hundred dollars ($100), nor more than five thousand dollars ($5,000), or imprisonment in the county jail for not more than one year, or both.

SEC. 83 Section 32210 of the Education Code is amended to read:

32210. Any person who willfully disturbs any public school or any public school meeting is guilty of a misdemeanor, and shall be punished by a fine of not more than five hundred dollars ($500).

SEC. 84. Section 44810 of the Education Code is amended to read:

44810. Every minor over 16 years of age or adult who is not a pupil of the school, including but not limited to any such minor or adult who is the parent or guardian of a pupil of the school, who comes upon any school ground or into any schoolhouse and there willfully interferes with the discipline, good order, lawful conduct, or administration of any school class or activity of the school, with the intent to disrupt, obstruct, or to inflict damage to property or bodily injury upon any person, is guilty of a misdemeanor, and is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or both.

SEC. 85 Section 44812 of the Education Code is amended to read:

44812. Any parent, guardian, or other person who insults or abuses any teacher in the presence of other school personnel or pupils and at a place which is on school premises or public sidewalks, streets, or other public ways adjacent to school premises or at some other place if the teacher is required to be at such other place in

connection with assigned school activities is guilty of a misdemeanor, and is punishable by a fine of not less than one hundred dollars ($100) nor exceeding one thousand dollars ($1,000).

SEC. 86. Section 48454 of the Education Code is amended to read:

48454. Any parent, guardian, or other person having control or charge of any minor subject to this chapter who fails to perform any of the duties imposed upon him by the provisions of Section 48450 is guilty of a misdemeanor, and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than fifty dollars ($50) or by imprisonment in the county jail for a period of not more than five days.

(2) Upon a second or subsequent conviction, by a fine of not less than fifty dollars ($50) or more than five hundred dollars ($500), by imprisonment in the county jail for a period of not less than five days or more than 25 days, or by both such fine and imprisonment.

SEC. 87. Section 49182 of the Education Code is amended to read:

49182. Any person, firm, corporation, or agent or officer of a firm or corporation, that violates or omits to comply with any of the provisions of this chapter, or that employs or suffers any minor under 18 years of age who is too old to be subject to compulsory full-time school attendance to be employed in violation thereof, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars ($100), nor more than four hundred dollars ($400), or by imprisonment in the county jail for not more than 60 days, or by both such fine and imprisonment for each and every offense.

SEC. 88. Section 49183 of the Education Code is amended to read:

49183. Every person authorized to sign any certificate of age or any permit to work or to employ which allows employment of any minor during or outside school hours, during a vacation of the public schools, or upon the regular school holiday who knowingly certifies to any false statement therein, is guilty of a misdemeanor, and is punishable by a fine of not less than ten dollars ($10) or more than one hundred dollars ($100), or imprisonment for not more than 30 days, or by both such fine and imprisonment.

SEC. 89. Section 94336 of the Education Code is amended to read:

94336. Any person, firm, association, partnership, or corporation willfully violating subdivision (d) of Section 94320 is guilty of a felony and is punishable by imprisonment in the state prison, or by a fine of not less than one thousand dollars ($1,000), or by both such fine and imprisonment.

Any person, firm, association, partnership, or corporation which willfully violates any other provision of this chapter, is punishable, for a first offense, by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or both; and any second or subsequent offense shall be a felony punishable by imprisonment in the state prison, or by a fine of not less than one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 90. Section 3376 of the Financial Code is amended to read:

3376. Any bank which makes a loan in violation of this article is liable to a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) for each offense. Any director, officer, or employee of a bank who knowingly makes or procures a loan in violation of this article is guilty of a felony.

SEC. 91. Section 3510 of the Financial Code is amended to read:

3510. It shall be unlawful for any director, officer, agent, or employee of any corporation to use or to conspire to use the credit, the funds, or the power of the corporation to fix or control the price of any commodities, and any such person violating this section shall be liable to a fine of not less than two thousand dollars ($2,000) and not exceeding ten thousand dollars ($10,000) or imprisonment not less than one year and not exceeding five years, or both, in the discretion of the court.

SEC. 92. Section 5005 of the Financial Code is amended to read:

5005. The violation of any provision of Section 5004 is a misdemeanor punishable by a fine of not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding 90 days or by both such fine and imprisonment.

SEC. 93. Section 5018 of the Financial Code is amended to read:

5018 Every person who willfully violates or willfully fails to comply with any of the provisions of this division is guilty of a public offense. Except where such offense is declared to be a felony or a misdemeanor or a different punishment is prescribed, such person shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 94. Section 5019 of the Financial Code is amended to read:

5019. Any person who willfully violates any lawful condition of a permit authorizing an association to issue its stock, or who with knowledge of any lawful order of the commissioner addressed to an association directing a discontinuance of any unsafe or injurious practice of such association, willfully violates such order, is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding four thousand dollars ($4,000), or by both such fine and imprisonment.

SEC. 95. Section 5603 of the Financial Code is amended to read:

5603. Any person violating Section 5602 is guilty of a public offense and shall be punished by imprisonment in the state prison, or in the county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 96. Section 5606 of the Financial Code is amended to read:

5606. No association shall make or purchase any loan or investment not authorized or permitted by this division and any officer or director who on behalf of any such association knowingly makes or purchases any loan or investment not authorized by this division or who knowingly consents thereto is personally liable to

such association for the full amount of any such loan or investment. Any officer or director violating this section is guilty of a public offense and shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 97. Section 5809 of the Financial Code is amended to read:

5809. Any person who, as principal, agent, salesman, solicitor, or in any other capacity, solicits or conducts in this state the business of selling, disposing of, taking, or soliciting subscriptions for the sale of any of the shares, stock, or investment certificates of any foreign association which has not complied with all the requirements of this chapter, is guilty of a public offense punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 98. Section 9005 of the Financial Code is amended to read:

9005. Whenever the commissioner demands possession of the property, business, and assets of any association, pursuant to this part, the refusal of any officer, agent, employee, or director of such association to comply with the demand is a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment.

SEC. 99. Section 17214 of the Financial Code is amended to read:

17214. Any person who engages in business as an escrow agent, either directly as principal or indirectly as agent, employee, manager, fiduciary representative, or in any other capacity, without applying for and receiving the license required by this division, is guilty of a misdemeanor punishable by imprisonment in a county jail for not less than three (3) months and not exceeding twelve (12) months, or by a fine of not less than five hundred dollars ($500) and not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment.

SEC. 100. Section 17624 of the Financial Code is amended to read:

17624 Whenever the commissioner demands possession of the property, business and assets of any licensee pursuant to this chapter, the refusal of any officer, agent, employee, trustee, or director of such licensee to comply with the demand is a misdemeanor, punishable by fine of not more than one thousand dollars ($1,000), or the imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment.

SEC. 101. Section 11036 of the Fish and Game Code is amended to read:

11036. The following constitutes the Klamath River Fish and Game District:

The waters of the Klamath River as described in the initiative act to create the Klamath River Fish and Game District, approved by the

electors on November 4, 1924, which initiative act provides:

The Klamath River Fish and Game District is hereby created and shall consist of the Klamath River and the waters thereof, following its meanderings from the confluence of the Klamath River and the Shasta River in the County of Siskiyou to the mouth of the Klamath River in Del Norte County.

Every person, firm, corporation or company who constructs or maintains any dam or other artificial obstruction in any of the waters of said Klamath River Fish and Game District is guilty of a misdemeanor and upon conviction must be fined not less than one thousand dollars ($1,000) or be imprisoned in the county jail of the county in which the conviction shall be had, not less than 100 days, or by both such fine and imprisonment, and any artificial obstruction constructed, placed or maintained in said district is hereby declared to be a public nuisance.

SEC. 102. Section 12002 of the Fish and Game Code is amended to read:

12002. The maximum punishment for a violation constituting a misdemeanor is a fine of one thousand dollars ($1,000) or imprisonment in the county jail for six months, or both, except as follows:

(a) The maximum punishment for violation of any of the following provisions is a fine of two thousand dollars ($2,000) or imprisonment in the county jail for one year, or both:

(1) Section 1059.

(2) Section 2052.

(3) Sections 3511, 4700, 5050, and 5515.

(4) Subdivision (d) of Section 4004.

(5) Sections 4600 to 4606, inclusive.

(6) Subdivision (a) or (b) of Section 5650.

(7) Section 8670.

(8) Section 10500.

(b) The maximum punishment for violation of any of the following provisions is a fine of four thousand dollars ($4,000) or imprisonment in the county jail for one year, or both:

(1) Section 3005.9.

(2) A violation of commission regulations which is discovered pursuant to Section 3005.91 or 3005.92.

(c) The maximum punishment for a violation of Section 4758 is a fine of five thousand dollars ($5,000) or imprisonment in the county jail for six months, or both.

SEC. 103. Section 12003 of the Fish and Game Code is amended to read:

12003. Notwithstanding Section 12002, a second or subsequent violation of Section 8670 is punishable by a fine of not less than two thousand dollars ($2,000) nor more than four thousand dollars ($4,000) or imprisonment in the county jail for one year, or by both such fine and imprisonment.

SEC. 104. 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 ten thousand dollars ($10,000), 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. 105. Section 9163 of the Food and Agricultural Code is amended to read:

9163. Any person that owns or has possession or control of any animal which is affected by any contagious or infectious disease, that fails to keep the animal within an inclosure, or herd the animal in a place where it is secure from contact with other animals of like kind that are not so affected, or that permits the infected animal to be driven on any public highway, is guilty of a misdemeanor, which is punishable by a fine of not more than one thousand dollars ($1,000) for each offense.

SEC. 106. Section 9165 of the Food and Agricultural Code is amended to read:

9165. Except for Sections 10492 and 10494, any person that violates any provision of this division is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days nor more than six months, or by both such fine and imprisonment.

SEC. 107. Section 9701 of the Food and Agricultural Code is amended to read:

9701. Any violation of any provision of this chapter is punishable by a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding six months, or both.

SEC. 108. Section 11891 of the Food and Agricultural Code is amended to read:

11891. Every person who violates any provision of this division, or any regulation issued pursuant to a provision of the division, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days

nor more than six months, or by both fine and imprisonment. Each violation constitutes a separate offense.

SEC. 109. Section 12996 of the Food and Agricultural Code is amended to read:

12996. Every person who violates any provision of this division, or any regulation issued pursuant to a provision of this division, is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days nor more than six months, or by both fine and imprisonment. Each violation constitutes a separate offense.

SEC. 110. Section 15071 of the Food and Agricultural Code is amended to read:

15071. (a) Any violation of any provision of this chapter, or the regulations adopted pursuant to it, is a misdemeanor which is punishable by a fine of not more than five hundred dollars ($500) for the first violation and not less than one thousand dollars ($1,000) for each subsequent violation.

(b) The director may, after hearing, refuse to issue or renew, or may suspend or revoke a license for any violation of this chapter or any regulation which is adopted pursuant thereto. Proceedings under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2, of the Government Code. After the loss of a license, the person so deprived has the right to appeal this action to the director.

SEC. 111. Section 16421 of the Food and Agricultural Code is amended to read:

16421. Except as otherwise provided in this part, every person that violates any provision of this part is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days nor more than six months or by both such fine and imprisonment. Each violation during any day shall constitute a separate offense.

SEC. 112. Section 16703 of the Food and Agricultural Code is amended to read:

16703. A violation of any provision of this chapter is a misdemeanor punishable by a fine of not less than ten dollars ($10) nor more than forty dollars ($40), or by imprisonment in the county jail not less than 30 days, or by both such fine and imprisonment.

SEC. 113. Section 20221 of the Food and Agricultural Code is amended to read:

20221 Every person that violates any provision of this division is guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days nor more than six months, or by both such fine and imprisonment. Each violation during any day constitutes a separate offense.

SEC. 114. Section 23071 of the Food and Agricultural Code is

amended to read:

23071. Every person that violates any provision of this division is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days nor more than 6 months, or by both such fine and imprisonment. Each violation during any day constitutes a separate offense.

SEC. 115. Section 26681 of the Food and Agricultural Code is amended to read:

26681. Any person that violates any provision of this chapter is guilty of a misdemeanor. Upon conviction, such person shall be punished by a fine not exceeding two hundred dollars ($200), or by imprisonment not exceeding six months in the county jail, or by both such fine and imprisonment.

SEC. 116. Section 27671 of the Food and Agricultural Code is amended to read:

27671. Any person that violates any provision of this chapter or any regulation adopted pursuant to this chapter is guilty of a misdemeanor which is punishable as follows:

(a) In cases of willful or intentional violation, by an imprisonment in the county jail not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both.

(b) In cases which do not involve willful or intentional violation, by a fine not to exceed one thousand dollars ($1,000).

Any prosecution for a violation of any provision of this chapter or any regulation adopted pursuant to this chapter may be instituted in any county where any part of the offense occurred. Any evidence which is taken by any enforcement officer in any county may be admitted in evidence in any prosecution in any other county.

SEC. 117 Section 29701 of the Food and Agricultural Code is amended to read:

29701. Any violation of any provision of this chapter is a misdemeanor and punishable by a fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both

SEC. 118. Section 35281 of the Food and Agricultural Code is amended to read:

35281. Any violation of any provision of this division, or the regulations for its enforcement, is a misdemeanor. Unless a different penalty is specifically prescribed, it is punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not less than 10 days nor more than 90 days, or by both.

SEC. 119. Section 37262 of the Food and Agricultural Code is amended to read:

37262. Violation of this article is punishable by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars ($500), or by both.

SEC. 120. Section 41551 of the Food and Agricultural Code is amended to read:

41551. Except as otherwise provided in Section 41552, any person, firm, company, or corporation that violates any provision of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than ten dollars ($10) nor more than one thousand dollars ($1,000), or shall be imprisoned in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

SEC. 121. Section 42971 of the Food and Agricultural Code is amended to read:

42971. Any violation of any provision of this division is a misdemeanor which is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both.

SEC. 122. Section 53541 of the Food and Agricultural Code is amended to read:

53541. The violation of any provision of this chapter is a misdemeanor and punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment.

SEC. 123. Section 54461 of the Food and Agricultural Code is amended to read:

54461. The willful violation of any provision of this chapter is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each and every such violation.

SEC. 124. Section 55901 of the Food and Agricultural Code is amended to read:

55901. Any misdemeanor which is prescribed by this article is punishable by a fine of not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than one year, or by both fine and imprisonment.

SEC. 125. Section 56631 of the Food and Agricultural Code is amended to read:

56631. Any misdemeanor which is specified in this article is punishable by a fine of not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SEC. 126. Section 59233 of the Food and Agricultural Code is amended to read:

59233. Every person that violates any provision of this chapter or any provision of any marketing order which is duly issued by the director pursuant to this chapter, is guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one

hundred dollars ($100), nor more than one thousand dollars ($1,000), or by imprisonment of not less than 10 days nor more than six months, or by both such fine and imprisonment. Each violation during any day constitutes a separate offense.

SEC. 127. Section 61571 of the Food and Agricultural Code is amended to read:

61571. The violation of any provisions of this chapter is a misdemeanor which is punishable by a fine not less than one hundred dollars ($100) and not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail not exceeding six months, or by both such fine and imprisonment. 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.

SEC. 128. Section 67723 of the Food and Agricultural Code is amended to read:

67723. A second conviction may be considered as a misdemeanor or a felony. If a misdemeanor, it shall be punishable by a fine of not less than three hundred dollars ($300), nor more than one thousand dollars ($1,000), for each violation or by imprisonment in the county jail not to exceed one year, or both, and each violation constitutes a separate offense. If a felony, it shall be punishable by a fine of not less than one thousand dollars ($1,000), nor more than ten thousand dollars ($10,000), for each violation or by imprisonment in the state prison not to exceed five years, or both, and each violation constitutes a separate offense.

Upon the second conviction, all permits issued to the person convicted shall be revoked and the permittee shall be required to surrender any unused tags and seals or wood receipts to the issuing agency and no new or additional permits shall be issued to the permittee at any time in the future from the date of conviction.

SEC. 129. Section 68111 of the Food and Agricultural Code is amended to read:

68111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or by both such 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, or in any way to affect the shipment and marketing of kiwifruit in order to avoid payment of assessments on the product's highest value.

(b) When engaged in the shipping of kiwifruit or in the wholesale or retail trade of kiwifruit, 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 kiwifruit and the quantity so received.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

SEC. 130. Section 6201 of the Government Code is amended to read:

6201. Every person not an officer referred to in Section 6200, who is guilty of any of the acts specified in that section, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 131. Section 8665 of the Government Code is amended to read:

8665. Any person who violates any of the provisions of this chapter or who refuses or willfully neglects to obey any lawful order or regulation promulgated or issued as provided in this chapter, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by a fine of not to exceed one thousand dollars ($1,000) or by imprisonment for not to exceed six months or by both such fine and imprisonment.

SEC. 132. Section 9056 of the Government Code is amended to read:

9056 Any person who shall secure through his influence, knowingly exerted for that purpose, the introduction of any bill, resolution or amendment into the State Legislature and shall thereafter solicit or accept from any person other than a person upon whose request he secured such introduction, any pay or other valuable consideration for preventing or attempting to prevent, the enactment or adoption of such measure, while it retains its original purpose, shall be guilty of a crime and upon conviction thereof shall be punishable by a fine of not exceeding ten thousand dollars ($10,000) or by imprisonment in the county jail for not more than one year or in the state prison, or by both such fine and imprisonment.

SEC. 133. Section 12975 of the Government Code is amended to read:

12975. Any person who shall willfully resist, prevent, impede or interfere with any member of the department or the commission or any of its agents or employees in the performance of duties pursuant to the provisions of this part relating to employment discrimination, or who shall in any manner willfully violate an order of the commission relating to such matter, is guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 134. Section 12976 of the Government Code is amended to read:

12976. Any person who willfully violates Section 12946 concerning recordkeeping is guilty of a misdemeanor, punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC 135. Section 13959 of the Government Code is amended to read:

13959. It is in the public interest to assist residents of the State of California in obtaining restitution for the pecuniary losses they suffer as a direct result of criminal acts. This article shall govern the procedure by which crime victims may obtain restitution through compensation from the Restitution Fund.

SEC. 135.1 Section 13960.1 is added to the Government Code, to read:

13960.1. The Indemnity Fund is hereby renamed the Restitution Fund. All existing statutory references to the Indemnity Fund shall hereafter be considered references to the Restitution Fund.

SEC. 135.2. Section 13967 of the Government Code is amended to read:

13967. (a) Upon a person being convicted of any crime in the State of California, the court shall, in addition to any other penalty provided or imposed under the law, order the defendant to pay a restitution fine in the form of a penalty assessment in accordance with Section 1464 of the Penal Code. If the person is convicted of one or more felony offenses, the court shall impose a separate and additional restitution fine of not less than one hundred dollars ($100) and not more than ten thousand dollars ($10,000). In setting the amount of the fine for felony convictions, the court shall consider any relevant factors including, but not limited to, the seriousness and gravity of the offense and the circumstances of its commission, any economic gain derived by the defendant as a result of the crime, and the extent to which others suffered losses as a result of the crime. Such losses may include pecuniary losses to the victim or his or her dependents as well as intangible losses, such as psychological harm caused by the crime. Except as provided in Section 1202.4 of the Penal Code, under no circumstances shall the court fail to impose the separate and additional restitution fine required by this section.

(b) The fine imposed pursuant to this section shall be deposited in the Restitution Fund in the State Treasury. Notwithstanding Section 13340, the proceeds in the Restitution Fund are hereby continuously appropriated to the board for the purpose of indemnifying persons filing claims pursuant to this article. However, the funds appropriated pursuant to this section for administrative costs of the State Board of Control shall be subject to annual review through the State Budget process.

SEC. 135.3. Section 13969 of the Government Code is amended to read:

13969. Claims under this article shall be paid from the Restitution Fund.

SEC. 135.4. Section 15619 of the Government Code is amended to read:

15619. Any member or ex-member of the State Board of Equalization, or any agent employed by it, or the Controller, or ex-Controller, or any person employed by him, or any person who has at any time obtained such knowledge from any of the foregoing officers or persons shall not divulge or make known in any manner

not provided by law, any of the following items of information concerning the business affairs of companies reporting to the board:

(a) Any information concerning the business affairs of any company which is gained during an examination of its books and accounts or in any other manner, and which information is not required by law to be reported to the State Board of Equalization.

(b) Any information, other than the assessment and the amount of taxes levied, obtained by the State Board of Equalization in accordance with law from any company other than one concerning which such information is required by law to be made public.

(c) Any particular item of information relating to the disposition of its earnings contained in the report of a quasi-public corporation which such corporation, by written communication specifying the items and presented at the time when it files its report, requests shall be treated as confidential.

Nothing in this section shall be construed as preventing examination of such records and reports by law enforcement agencies, grand juries, boards of supervisors, or their duly authorized agents, employees or representatives conducting an investigation of an assessor's office pursuant to Section 25303 of this code, and other duly authorized legislative or administrative bodies of the state pursuant to their authorization to examine such records.

The Governor may authorize examination of such reports by other state officers. In such event the information obtained by such persons shall not be made public. The Governor, however, may direct that any of the information referred to in this section shall be made public

Any violation of this section is a misdemeanor and punishable by a fine not to exceed one thousand dollars ($1,000), or by imprisonment not to exceed six months, or both, at the discretion of the court

SEC. 136. Section 25132 of the Government Code is amended to read:

25132. (a) Violation of a county ordinance is a misdemeanor unless by ordinance it is made an infraction. Such a violation may be prosecuted by county authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars ($100) for a first violation; (2) a fine not exceeding two hundred dollars ($200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five hundred dollars ($500) for each additional violation of the same ordinance within one year

SEC. 137. Section 27495 of the Government Code is amended to read

27495. Any juror summoned who willfully and without reasonable excuse fails to attend is guilty of a misdemeanor punishable by fine of not to exceed twenty dollars ($20).

SEC. 138. Section 36900 of the Government Code is amended to

read:

36900. (a) Violation of a city ordinance is a misdemeanor unless by ordinance it is made an infraction. Such a violation may be prosecuted by city authorities in the name of the people of the State of California, or redressed by civil action.

(b) Every violation determined to be an infraction is punishable by (1) a fine not exceeding one hundred dollars ($100) for a first violation; (2) a fine not exceeding two hundred dollars ($200) for a second violation of the same ordinance within one year; (3) a fine not exceeding five hundred dollars ($500) for each additional violation of the same ordinance within one year.

SEC. 139. Section 36901 of the Government Code is amended to read:

36901. The city legislative body may impose fines, penalties, and forfeitures for violations of ordinances. It may fix the penalty by fine or imprisonment, or both. A fine shall not exceed one thousand dollars ($1,000). Imprisonment shall not exceed six months.

SEC. 140. Section 68055.7 of the Government Code is amended to read:

68055.7. Any person violating any of the provisions of this chapter is guilty of an infraction, and upon conviction thereof shall be liable to punishment by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a first conviction, not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) upon a second conviction, and not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

SEC. 141. Section 308 of the Harbors and Navigation Code is amended to read:

308. Every person who moors any vessel of any kind, to any buoy or beacon placed in the waters of California by authority of the United States Bureau of Lighthouses, or who in any manner hangs on to the same, with any vessel, or who willfully removes, damages, or destroys any such buoy or beacon, or any part thereof, or who cuts down, removes, damages, or destroys any beacon or beacons erected on land in this state by the authority aforesaid, is, for every offense, guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment not exceeding six months.

SEC. 142. Section 668 of the Harbors and Navigation Code is amended to read:

668. (a) Any person who violates any provisions of Section 652, 654, 654.05, 654.06, 655.2, 655.3, 659, or 663.6, or any regulations adopted by the department pursuant thereto, is guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars ($100) or imprisonment in the county jail for not to exceed five days, or both, for each violation

(b) Any person who violates any provisions of subdivision (a) or (b) of Section 658 is guilty of a misdemeanor and shall be subject to

a fine of not to exceed two hundred dollars ($200) for each violation.

(c) Any person who violates any provision of Section 652.5, subdivision (a) or (b) of Section 655, Section 656, or subdivision (d) or (e) of Section 658, or any special rules and regulations adopted by the department pursuant to the provisions of subdivision (b) or (c) of Section 660, is guilty of a misdemeanor and shall be subject to a fine of not to exceed one thousand dollars ($1,000) or imprisonment in the county jail for not to exceed six months, or both, for each violation.

(d) Any person who violates subdivision (c) of Section 655 shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year, and by a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000).

(e) If any person is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of subdivision (b) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in county jail for not less than five days nor more than one year, and pay a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000). If any person is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of subdivision (c) of Section 655 and is granted probation, it shall be a condition of probation that the person be confined in county jail for not less than 90 days nor more than one year, and pay a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000).

(f) In no event shall the court have the power to absolve a person who is convicted of an offense under subdivision (c) of Section 655 within five years of a prior conviction of a violation of that section from the obligation of spending the minimum time in confinement as provided in this section, and of paying a fine of at least five hundred dollars ($500), except as provided in subdivision (g).

(g) Except in unusual cases where the interests of justice demand an exception, the court shall not strike a prior conviction of an offense under subdivision (b) or (c) of Section 655 for purposes of sentencing in order to avoid imposing as part of the sentence or term of probation the minimum time in confinement and the minimum fine, as provided in this section. When such a prior conviction is stricken by the court for purposes of sentencing, the court shall specify the reason or reasons for the striking order. On appeal by the people from an order striking such a prior conviction, it shall be conclusively presumed that the order was made only for the reasons specified in the order, and the order shall be reversed if there is no substantial basis in the record for any of those reasons.

SEC. 143. Section 6309.4 of the Harbors and Navigation Code is amended to read:

6309.4. Every person who violates any of the provisions of a district ordinance adopted pursuant to Sections 6309 and 6309.2 is

guilty of an infraction and shall be subject to a fine not to exceed one hundred dollars ($100).

SEC. 144. Section 1235 of the Health and Safety Code is amended to read:

1235. (a) Except as provided in subdivision (b), any person who violates any of the provisions of this chapter or who willfully or repeatedly violates any rule or regulation promulgated under this chapter is guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days or by both such fine and imprisonment.

(b) Any person who violates the provisions of Section 1234 is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100)

SEC. 145. Section 1290 of the Health and Safety Code is amended to read:

1290. (a) Except as provided in subdivision (b), any person who violates any of the provisions of this chapter or who willfully or repeatedly violates any rule or regulation promulgated under this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days or by both such fine and imprisonment.

(b) Any person who violates the provisions of Section 1286 is guilty of an infraction and shall be punished by a fine of not more than one hundred dollars ($100).

SEC. 146. Section 1540 of the Health and Safety Code is amended to read:

1540. Any person who violates any of the provisions of this chapter, or who willfully or repeatedly violates any rule or regulation promulgated under this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days, or by both such fine and imprisonment

SEC. 147. Section 1595.2 of the Health and Safety Code is amended to read:

1595.2 Any person who negligently, repeatedly, or willfully violates any of the provisions of this chapter, or regulations adopted pursuant to this chapter, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed six months, or by both such fine and imprisonment.

SEC. 148. Section 1620 of the Health and Safety Code is amended to read:

1620. The violation of any provision of this chapter is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by

imprisonment for not more than 30 days, or by both.

SEC. 149. Section 1739 of the Health and Safety Code is amended to read:

1739. Any person who violates any of the provisions of this chapter or of the rules and regulations promulgated under this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail for a period not to exceed 180 days or by both such fine and imprisonment.

SEC. 150. Section 1909 of the Health and Safety Code is amended to read:

1909. Every person who possesses or holds any animal in violation of the provisions of this article is guilty of an infraction, punishable by a fine not exceeding one thousand dollars ($1,000).

SEC. 151. Section 3354 of the Health and Safety Code is amended to read:

3354. Any person who violates any section in Chapter 3 of this division, with the exception of Section 3111, is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment for a term of not more than 90 days, or by both. He is guilty of a separate offense for each day that the violation continued.

SEC. 152. Section 3704 of the Health and Safety Code is amended to read:

3704. Violation of any provision of this chapter is a misdemeanor punishable by a fine not exceeding fifty dollars ($50) for each offense.

SEC. 153. Section 3803 of the Health and Safety Code is amended to read:

3803. Violation of any provision of this chapter is a misdemeanor punishable by a fine not exceeding fifty dollars ($50) for each offense.

SEC. 154. Section 4009 of the Health and Safety Code is amended to read:

4009. Any person who violates any provision of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment in a county jail for not exceeding six months, or by both such fine and imprisonment.

SEC. 155. Section 4456 of the Health and Safety Code is amended to read:

4456. Every person who washes clothes in any spring, stream, river, lake, reservoir, well, or other waters which are used or intended for drinking purposes by the inhabitants of the vicinage or of any city, county, or town, of this state, is guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days, or a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

Each day's violation of this section is a separate offense.

SEC. 156. Section 9675 of the Health and Safety Code is amended to read:

9675. Every person who violates any provision of this part is guilty of a misdemeanor, punishable by fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment in a county jail not less than 10 days nor more than six months, or by both; and in addition is liable for all costs, expenses, and disbursements paid or incurred by the department or person prosecuting the case.

SEC. 157. Section 10679 of the Health and Safety Code is amended to read:

10679. The punishment for misdemeanors referred to in this chapter shall be as follows:

(a) For the first offense a fine of not less than twenty dollars ($20).

(b) For each subsequent offense a fine of not less than one hundred dollars ($100), or imprisonment in the county jail not more than 60 days, or by both.

SEC. 158. Section 12401 of the Health and Safety Code is amended to read:

12401. Every person who is found guilty of a felony as specified in this part is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 159. Section 13002 of the Health and Safety Code is amended to read:

13002. (a) Every person is guilty of a misdemeanor who throws or discharges any lighted or nonlighted cigarette, cigar, match, or any flaming or glowing substances, or any substance or thing which may cause a fire upon any highway, including any portion of the right-of-way thereof, sidewalk or upon any public or private property. No portion of this subdivision shall be construed to restrict a private owner in the use of his or her own private property, except that the placing, depositing, or dumping of the waste matter on the property shall not create a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or fire district, or the Department of Forestry in which case the provisions of this section shall apply

(b) Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a second or subsequent conviction, require as a condition of probation, in addition to any other condition, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or

subsequent conviction.

SEC. 160. Section 13028 of the Health and Safety Code is amended to read:

13028. Any person who sells or offers for sale any fire hose, hydrant, fire engine or other equipment with threaded parts, for fire protective purposes, unless it is fitted and equipped with the standard thread for fire hose couplings and hydrant fittings is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than four hundred dollars ($400), or by imprisonment in the county jail for not less than five or more than 30 days, or by both.

SEC. 161. Section 13112 of the Health and Safety Code is amended to read:

13112. Every person who violates any provision of this chapter, or any order, rule, or regulation made pursuant to this chapter, is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than four hundred dollars ($400), or by imprisonment for not less than 30 nor more than 180 days, or by both.

A person is guilty of a separate offense each day during which he commits, continues, or permits a violation of any provision of, or any order, rule, or regulation made pursuant to, this chapter.

SEC. 162. Section 17995 of the Health and Safety Code is amended to read:

17995. Any person who violates any of the provisions of this part, the building standards published in the State Building Standards Code relating to the provisions of this part, or any other rule or regulation promulgated pursuant to the provisions of this part is guilty of a misdemeanor, 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. 163. Section 18700 of the Health and Safety Code is amended to read:

18700. Any person who willfully violates any of the provisions of this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the commission pursuant to this part is guilty of a misdemeanor, punishable by a fine not exceeding four hundred dollars ($400) or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

Any permitholder who willfully violates any of the provisions of this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the commission pursuant to this part shall be subject to suspension or revocation of his permit to operate.

Any person who willfully violates any provision of this part, building standards published in the State Building Standards Code relating thereto, or any other rules or regulations adopted by the commission pursuant to this part, shall be liable for a civil penalty of five hundred dollars ($500) for each such violation or for each day

of a continuing violation. The enforcement agency shall institute or maintain an action in the appropriate court to collect any civil penalty arising under this section.

SEC. 164. Section 18851 of the Health and Safety Code is amended to read.

18851. Any person who violates any of the provisions of this part, building standards published in the State Building Standards Code relating to mobilehome accessory structures, or any other regulation adopted by the commission pursuant to the provisions of this part is guilty of a misdemeanor, 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. 165. Section 19997 of the Health and Safety Code is amended to read:

19997. Any person who violates any of the provisions of this part, a building standard published in the State Building Standards Code relating to factory-built housing, or any other rules or regulations adopted pursuant to this part is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.

SEC. 166. Section 24004 of the Health and Safety Code is amended to read:

24004. Every person who violates any provision of this article is guilty of a misdemeanor punishable by a fine of not less than ten nor more than four hundred dollars ($400), or by imprisonment for not less than ten days nor more than six months, or by both.

SEC. 167. Section 24108 of the Health and Safety Code is amended to read:

24108. Every person who violates any provision of this article, building standards published in the State Building Standards Code relating to swimming pools, or the rules and regulations adopted pursuant to the provisions of this article, is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment for not more than six months, or both.

SEC. 168. Section 25010 of the Health and Safety Code is amended to read:

25010. Violation of any of the provisions of this chapter or of any order or orders of a health officer made pursuant to this chapter for the protection of human health and comfort shall constitute a misdemeanor and shall be punishable by a fine of not less than two hundred dollars ($200) for each offense or by imprisonment for not less than thirty (30) days or by both such fine and imprisonment.

SEC. 169. Section 25865 of the Health and Safety Code is amended to read:

25865. Any person who violates any of the provisions of this chapter or rules, regulations, or orders in effect pursuant thereto is guilty of a misdemeanor and shall, upon conviction thereof, be

punished by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a period not to exceed 180 days or by both such fine and imprisonment.

SEC. 170. Section 25897 of the Health and Safety Code is amended to read:

25897. (a) No person shall knowingly manufacture, sell, or offer for sale any toy which is designed to depict torture or resemble an instrument specifically designed for torture, or which specifically resembles a bomb or grenade.

(b) This section shall not apply to any model of an aircraft, ship, motor vehicle, railroad engine, car, or rocketship or other spacecraft, or to any part of such model.

(c) Violation of this section is a misdemeanor punishable by a fine of not more than six hundred dollars ($600).

SEC. 171. Section 25987 of the Health and Safety Code is amended to read:

25987. Any violation of any provision of this chapter shall be punishable by a fine of two hundred dollars ($200).

SEC. 172. Section 28160 of the Health and Safety Code is amended to read:

28160. Any person violating any of the provisions of this chapter, or any rule or regulation issued pursuant to this chapter, shall upon conviction be punished for the first offense by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than 90 days, or by both. The punishment for a second offense is the same, except that the maximum fine is two thousand dollars ($2,000)

SEC. 173. Section 28455 of the Health and Safety Code is amended to read:

28455. Any person who does not obtain a license required of him by this chapter, or who engages in canning operations after his license has been suspended or revoked, or who otherwise violates this chapter, is guilty of a misdemeanor, and upon conviction is punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for not exceeding six months.

SEC. 174. Section 28726 of the Health and Safety Code is amended to read:

28726. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

SEC. 175. Section 28770 of the Health and Safety Code is amended to read:

28770. Any person who violates any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than fifty dollars ($50) or more than one thousand dollars ($1,000), or by imprisonment in the county jail

for a term not exceeding six months, or by both such fine and imprisonment.

If the violation is committed with intent to defraud or mislead, or after a conviction of such person under this section has become final, such person shall be subject to imprisonment for not more than one year in the county jail, or a fine of not more than two thousand dollars ($2,000), or both such imprisonment and fine.

SEC. 176. Section 28862 of the Health and Safety Code is amended to read:

28862. Any person who violates any provision of this chapter or regulations adopted pursuant to this chapter is guilty of a misdemeanor. Each offense shall be punished by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or by imprisonment in the county jail for a term not exceeding six months, or by both such fine and imprisonment.

The owner, manager, or operator of any food establishment is also responsible for any violation by his employees of any provision of this chapter.

SEC. 177. Section 657 of the Insurance Code is amended to read:

657. (a) Where any admitted insurer, licensed to issue motor vehicle liability policies as defined in Section 16450 of the Vehicle Code, or any licensed insurance agent refuses to accept an application for such a policy or refuses to issue such a policy when a written application has been made, the refusing agent or refusing insurer shall furnish to the applicant for insurance a written statement explaining the reason or reasons relied upon for such action if within 30 days of such refusal the applicant requests in writing, from the agent or insurer who has refused to accept the application or to issue the policy, such a written explanation. Such statement shall be furnished within 30 days of receipt of such request.

(b) Any insurer or agent willfully violating any provisions of this section is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000) for each violation thereof.

(c) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the Insurance Commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to the reasons for such a refusal, for any statement made by any of them in any written notice of reasons for refusing to accept the application or issue the policy or in any other communication, oral or written, specifying the reasons for such action or the providing of the information pertaining thereto, or for statements made or evidence submitted in any hearings conducted in connection therewith.

SEC. 178. Section 669 of the Insurance Code is amended to read:

669. Any insurer willfully violating any provisions of Section 663 is guilty of a misdemeanor and is punishable by a fine of not exceeding one thousand dollars ($1,000) for each violation thereof.

SEC. 179 Section 782 of the Insurance Code is amended to read:

782. Any person violating the provisions of Sections 780 or 781 is guilty of a misdemeanor and punishable by a fine not exceeding two hundred dollars ($200) or by imprisonment not exceeding six months.

SEC. 180. Section 804 of the Insurance Code is amended to read:

804. Any insurer willfully violating any provision of this article is guilty of a misdemeanor and is punishable by a fine not exceeding one thousand dollars ($1,000) for each violation thereof, or the commissioner may suspend the certificate of authority of such insurer for the remainder of the term thereof.

SEC. 181. Section 833 of the Insurance Code is amended to read:

833. Every person who commits any of the acts specified in this section is guilty of a public offense and punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

(a) Knowingly authorizing, directing, aiding, causing, or assisting in causing the issuance, execution, or sale of, any security, in nonconformity with a permit of the commissioner then in effect and authorizing such issuance, or contrary to the provisions of this article.

(b) Knowingly making any false statement or representation in any application to the commissioner, or in any proceeding before him, or in any examination, audit, or investigation made by him, or by his authority.

(c) With knowledge of the falsity, causing to be filed in the office of the commissioner any false statement or representation concerning an insurer, the property which the insurer then holds or proposes to acquire, the insurer's officers, the insurer's financial condition or other affairs, or the insurer's proposed plan of business.

(d) With knowledge of the falsity of any such statement or representation, causing any security to be issued, executed, or sold without first informing the commissioner of the falsity of such statement in writing.

(e) Directly or indirectly, knowingly causing or assisting in causing any part of the proceeds from the sale of any security to be applied to any purpose contrary to the provisions of the permit authorizing the issuance of such security, or to any purpose in excess of the amount specified in such permit for such purpose.

(f) Selling a security with knowledge that it has been issued or executed in violation of any of the provisions of this article.

(g) Causing a writing concerning a security to be issued, circulated, or published while having knowledge that such matter contains any statement that is false, misleading, or otherwise likely to deceive a reader thereof.

(h) In any respect, willfully violating or failing to comply with any of the provisions of this article.

(i) In any other respect, willfully violating or neglecting to comply with any part of an order or permit of the commissioner under the provisions of this article.

(j) Conspiring with one or more other persons to violate any permit or order issued by the commissioner, or any of the provisions of this article.

SEC. 182. Section 1043 of the Insurance Code is amended to read:

1043. In any proceeding under this article, the commissioner, as conservator or as liquidator, may, subject to the approval of said court, and subject to such liens as may be necessary mutualize or reinsure the business of such person, or enter into rehabilitation agreements. No commissioner who acts as conservator of such person or who mutualizes, merges or reinsures the business of such person or who enters into rehabilitation agreements affecting such person, and no deputy commissioner who has participated in the administration of the affairs of such person for the commissioner as conservator shall for a period of two years from and after the effective date of such mutualization, reinsurance or rehabilitation become an officer or director of, or serve as an officer or director of, or serve in any position of gain or profit in, any company formed in whole or in part of the assets or funds, or any part of the assets or funds of such mutualized, merged, reinsured or rehabilitated person.

Every person violating this provision is guilty of a public offense and shall be punished by imprisonment in the state prison, or in the county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

Such rehabilitation or reinsurance agreements shall provide that, subsequent to the date thereof and for such period of time as the commissioner may determine, no investment or reinvestment of the assets of the person rehabilitated or reinsured shall be made without first obtaining the written approval of the commissioner.

Every party to such agreement, and every director, officer, agent and employee of such person, and every other person who knowingly in violation thereof directs or aids or assists in causing to be made an investment or reinvestment of any of said assets without first having obtained the written approval of the commissioner, or who makes such investment or reinvestment in nonconformity with the written approval of the commissioner then in effect authorizing such investment or reinvestment, is guilty of a public offense and shall be punished by imprisonment in the state prison, or in the county jail or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 183. Section 11146 of the Insurance Code is amended to read:

11146. Any person who violates any provision of Sections 11142 to 11145 or knowingly receives any compensation or commission by or in consequence of such violation, shall upon conviction be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment.

SEC. 184. Section 11161 of the Insurance Code is amended to read:

11161. Any person violating Section 11160 is guilty of a felony and punishable by a fine not exceeding ten thousand dollars ($10,000) or imprisonment in the state prison, or both.

SEC. 185. Section 11164 of the Insurance Code is amended to read:

11164. Any person not authorized pursuant to Section 11013 who solicits membership for, or in any manner assists in procuring membership in, any nonadmitted fraternal benefit society is guilty of a misdemeanor and punishable by fine not less than one hundred dollars ($100) nor more than four hundred dollars ($400).

SEC. 186. Section 11165 of the Insurance Code is amended to read:

11165. Any person who knowingly or willfully makes any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money or benefit from any fraternal benefit society is guilty of a misdemeanor and punishable by fine not less than one hundred dollars ($100) nor exceeding one thousand dollars ($1,000), or imprisonment in the county jail not less than 30 days nor exceeding one year, or both.

SEC. 187. Section 23 of the Labor Code is amended to read:

23. Except in cases where a different punishment is prescribed, every offense declared by this code to be a misdemeanor is punishable by imprisonment in a county jail, not exceeding six months, or by a fine not exceeding one thousand dollars ($1,000), or both.

SEC. 188. Section 90 of the Labor Code is amended to read:

90. The Labor Commissioner, his deputies and agents, shall have free access to all places of labor. Any person, or agent or officer thereof, who refuses admission to the Labor Commissioner or his deputy or agent or who, upon request, willfully neglects or refuses to furnish them any statistics or information, pertaining to their lawful duties, which are in his possession or under his control, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000).

SEC. 189. Section 91 of the Labor Code is amended to read:

91. Any person who willfully impedes or prevents the Labor Commissioner or his deputies or agents in the performance of duty, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisonment for not less than seven nor more than 30 days in the county jail, or both.

SEC. 190. Section 354 of the Labor Code is amended to read:

354. Any employer who violates any provision of this article is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not exceeding 60 days, or both.

SEC. 191. Section 408 of the Labor Code is amended to read:

408. Any person or agent or officer thereof, who violates any

provision of this article, except the provisions of Section 405, is guilty of a misdemeanor, punishable by a fine of not less than fifty dollars ($50) and not exceeding one thousand dollars ($1,000), or imprisonment for not exceeding six months, or both.

SEC. 192. Section 432.7 of the Labor Code is amended to read:

432.7. (a) No employer whether a public agency or private individual or corporation shall ask an applicant for employment to disclose, through any written form or verbally, information concerning an arrest or detention which did not result in conviction, or information concerning a referral to and participation in any pretrial or posttrial diversion program, nor shall any employer seek from any source whatsoever, or utilize as a factor in determining any condition of employment including hiring, promotion, termination, or any apprenticeship training program or any other training program leading to employment, any record of arrest or detention which did not result in conviction, or any record regarding a referral to and participation in any pretrial or posttrial diversion program. As used in this section, a conviction shall include a plea, verdict, or finding of guilt regardless of whether sentence is imposed by the court. Nothing in this section shall prevent an employer from asking an employee or applicant for employment about an arrest for which the employee or applicant is out on bail or on his or her own recognizance pending trial.

(b) In any case where a person violates any provision of this section, or Article 6 (commencing with Section 11140) of Chapter 1 of Title 1 of Part 4 of the Penal Code, the applicant may bring an action to recover from such person actual damages or two hundred dollars ($200), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section shall entitle the applicant to treble actual damages, or five hundred dollars ($500), whichever is greater, plus costs, and reasonable attorney's fees. An intentional violation of this section is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000)

(c) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies which an applicant may have under any other law.

(d) Persons seeking employment as peace officers or for positions in the Department of Justice or other criminal justice agencies as defined in Section 13101 of the Penal Code are not covered by this section.

(e) Nothing in this section shall prohibit an employer at a health facility, as defined in Section 1250 of the Health and Safety Code, from asking an applicant for employment either of the following:

(1) With regard to an applicant for a position with regular access to patients, to disclose an arrest under any section specified in Section 290 of the Penal Code.

(2) With regard to an applicant for a position with access to drugs and medication, to disclose an arrest under any section specified in Section 11590 of the Health and Safety Code.

(f) (1) No peace officer or employee of a law enforcement agency with access to criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose, with intent to affect a person's employment, any information contained therein pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(2) No other person authorized by law to receive criminal offender record information maintained by a local law enforcement criminal justice agency shall knowingly disclose any information received therefrom pertaining to an arrest or detention or proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, to any person not authorized by law to receive such information.

(3) No person, except those specifically referred to in Section 1070 of the Evidence Code, who knowing he or she is not authorized by law to receive or possess criminal justice records information maintained by a local law enforcement criminal justice agency, pertaining to an arrest or other proceeding which did not result in a conviction, including information pertaining to a referral to and participation in any pretrial or posttrial diversion program, shall receive or possess such information.

(g) "A person authorized by law to receive such information", for purposes of this section, means any person or public agency authorized by a court, statute, or decisional law to receive information contained in criminal offender records maintained by a local law enforcement criminal justice agency, and includes, but is not limited to, those persons set forth in Section 11105 of the Penal Code, and any person employed by a law enforcement criminal justice agency who is required by such employment to receive, analyze, or process criminal offender record information.

(h) Nothing in this section shall require the Department of Justice to remove entries relating to an arrest or detention not resulting in conviction from summary criminal history records forwarded to an employer pursuant to law.

(i) As used in this section, "pretrial or posttrial diversion program" means any program under Chapter 2.5 (commencing with Section 1000) or Chapter 2.7 (commencing with Section 1001) of Title 6 of Part 2 of the Penal Code, Section 13201, 13201.5 or 13352.5 of the Vehicle Code, or any other program expressly authorized and described by statute as a diversion program.

SEC. 193. Section 606 of the Labor Code is amended to read:

606. Any officer, agent or representative of any railroad corporation who violates any of the provisions of this chapter is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each

offense, or confinement in the county jail for not less than 10 nor more than 60 days, or both. Such person so offending may be prosecuted under this section, either in the county where he is at the time of commission of the offense, or in any county where such employee has been permitted or required to work in violation of this chapter

SEC. 194. Section 752 of the Labor Code is amended to read:

752. Any person who violates any provision of this chapter and any person who, as foreman, manager, director or officer of a corporation, or as the employer or superior officer of any person, commands, persuades, or allows any person to violate any provision of this chapter is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600) or by imprisonment of not more than 90 days, or both.

SEC. 195. Section 801 of the Labor Code is amended to read:

801. Any person, or agent or officer thereof who violates any provision of this chapter is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than four hundred dollars ($400).

SEC. 196. Section 853 of the Labor Code is amended to read:

853. Any person who violates any provision of this chapter is guilty of a misdemeanor punishable by a fine of not less than forty dollars ($40) nor more than one hundred dollars ($100) or by imprisonment for not exceeding 60 days, or both.

SEC. 197. Section 971 of the Labor Code is amended to read:

971. Any person, or agent or officer thereof, who violates Section 970 is guilty of a misdemeanor punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or imprisonment for not more than six months or both.

SEC. 198. Section 1011 of the Labor Code is amended to read:

1011. A person engaged in the production, manufacture, or sale of any article of merchandise in this state, shall not, by any label placed or impressed upon such article, or upon its container, misrepresent or falsely state any of the following as to the production of such article:

(a) The kind, character, or nature of the labor employed.

(b) The extent of the labor employed.

(c) The number or kind of persons exclusively employed.

(d) That a particular or distinctive class or character of laborers was wholly and exclusively employed, when in fact another class, or character, or distinction of laborers was used or employed either jointly or in anywise supplementary to such exclusive class, character, or distinction of laborers.

Violation of any provision of this section is a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for not less than 20 nor more than 90 days, or both.

SEC. 199. Section 1012 of the Labor Code is amended to read:

1012. Any person engaged in the production, manufacture, or

sale of any article of merchandise in this state, or any person engaged in the performance of any acts or services of a private, public, or quasi-public nature for profit, who willfully misrepresents or falsely states that members of trades unions, labor associations, or labor organizations were engaged or employed in the manufacture, production, or sale of such article or in the performance of such acts or services, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than 90 days, or both.

SEC. 200. Section 1015 of the Labor Code is amended to read·

1015. Any person who, without having an unrevoked written authority from such trade union, labor association or labor organization, willfully forges or procures to be forged such label or trademark, with intent to sell or assist other persons to sell, any goods to which such forged label is affixed as having been made, manufactured, or produced in whole or in part by labor, laborers, or employees who are members of, or allied or associated with, such trade union, labor association, or labor organization, is guilty of a misdemeanor, punishable by a fine not more than one thousand dollars ($1,000) or imprisonment for not more than 90 days, or both

SEC. 201 Section 1016 of the Labor Code is amended to read:

1016. Any person who willfully uses or displays the genuine label, trademark, insignia, seal, device, or form of advertisement of any association or labor union, in any manner not authorized by such association or labor organization or not in conformity with the bylaws thereof, is guilty of a misdemeanor punishable by a fine not exceeding two hundred dollars ($200) or imprisonment for not more than three months, or both.

SEC 202. Section 1018 of the Labor Code is amended to read:

1018. Any person who willfully wears the button of any labor union of this state, unless entitled to wear the button under the rules of such union, is guilty of a misdemeanor, and is punishable by imprisonment in the county jail for not more than 20 days or by a fine of not more than forty dollars ($40), or by both fine and imprisonment.

SEC. 203. Section 1056 of the Labor Code is amended to read:

1056. Every public utility corporation violating Section 1055 is guilty of a misdemeanor punishable by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200) for each offense, which fine shall be collected by the district attorney of the county in which the public utility corporation has its principal place of business.

SEC. 204. Section 1136 of the Labor Code is amended to read:

1136. Any person, partnership, firm, corporation, association or other entity, or officer or agent thereof, who shall violate any of the provisions of this chapter shall upon conviction thereof be subject to a fine not to exceed one thousand dollars ($1,000), or imprisonment for a period not to exceed 90 days, or both such fine and imprisonment, in the discretion of the court.

SEC. 205. 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 one hundred dollars ($100) 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. 206. Section 1303 of the Labor Code is amended to read:

1303. Any person, or agent or officer thereof, employing either directly or indirectly through third persons, or any parent or guardian of a minor affected by this article who violates any provision hereof, or who employs, or permits any minor to be employed in violation hereof, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisonment in the county jail for not more than 60 days, or both.

SEC. 207. Section 1308 of the Labor Code is amended to read:

1308. (a) Any person is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars ($100) and not more than five hundred dollars ($500) or imprisonment for not exceeding six months or both, who, as parent, relative, guardian, employer, or otherwise having the care, custody, or control of any minor under the age of 16 years, exhibits, uses, or employs, or in any manner or under any pretense, sells, apprentices, gives away, lets out, or disposes of any such minor to any person, under any name, title, or pretense for, or who causes, procures, or encourages such minor to engage in:

(1) Any business, exhibition, or vocation, injurious to the health or dangerous to the life or limb of such minor.

(2) The vocation, occupation, service, or purpose of singing, playing on musical instruments, rope or wire walking, dancing, begging, or peddling, or as a gymnast, acrobat, contortionist, or rider, in any place whatsoever.

(3) Any obscene, indecent, or immoral purposes, exhibition, or practice whatsoever.

(4) Any mendicant or wandering business.

(b) Nothing in this section applies to or affects:

(1) The employment or use of any minor, as a singer or musician in any church, school, or academy, or the teaching or learning of the science or practice of music.

(2) The employment of any minor as a musician at any concert or other musical entertainment on the written consent of the mayor of the city or president of the board of trustees of the city or town where

such concert or entertainment takes place.

(3) The participation by any minor of any age, whether or not the minor receives payment for his services or receives money prizes, in any horseback riding exhibition, contest, or event other than a rough stock rodeo event, circus, or race. As used in this paragraph, "rough stock rodeo event" means any rodeo event operated for profit or operated by other than a nonprofit organization in which unbroken, little-trained, or imperfectly trained animals are ridden or handled by the participant, and shall include, but not be limited to, saddle bronc riding, bareback riding, and bull riding. As used in this paragraph, "race" means any speed contest between two or more animals which are on a course at the same time which is operated for profit or operated other than by a nonprofit organization.

(4) The leading of livestock by a minor in nonprofit fairs stock parades, livestock shows and exhibitions.

SEC. 208. Section 1309 of the Labor Code is amended to read:

1309. Every person who takes, receives, hires, employs, uses, exhibits, or has in custody, for any of the purposes mentioned in Section 1308, any minor under the age of 16 is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisonment for not more than six months, or both.

SEC. 209. Section 1354 of the Labor Code is amended to read:

1354. Every person, or the agent or officer thereof, employing any female who violates any provision of this article, or who employs, or permits any female to work in violation thereof, is guilty of a misdemeanor, punishable, for a first offense, by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200); and for a second or subsequent offense, by a fine of not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or imprisonment for not more than 60 days, or both.

SEC. 210. Section 1391 of the Labor Code is amended to read:

1391. Except as provided in Sections 1297 and 1298, no minor shall be employed more than eight hours in one day of 24 hours or more than 48 hours in one week, or before five o'clock in the morning, or after 10 o'clock in the evening; but a minor may work the hours authorized by this section during any evening preceding a nonschoolday until 12:30 in the morning of such nonschoolday.

Any person or the agent or officer thereof, or any parent or guardian, who directly or indirectly violates or causes or suffers the violation of any provision of this section is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars ($100) nor more than four hundred dollars ($400) or imprisonment in the county jail for not more than 60 days or both.

SEC. 211. Section 1393 of the Labor Code is amended to read:

1393. No minor shall vend and sell goods, engage in, or conduct any business between 10 o'clock in the evening and five o'clock in the morning.

Any person who violates this section is guilty of a misdemeanor,

punishable by a fine of not more than forty dollars ($40), or by imprisonment for not more than 10 days, or by both.

SEC. 212. Section 1697 of the Labor Code is amended to read:

1697. (a) Any person who violates any provisions of this chapter, or who causes or induces another to violate any provisions of this chapter, is guilty of a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or imprisonment in the county jail for not more than six months, or both.

(b) Any employee aggrieved by any violation of this chapter, other than acts and conduct also proscribed by Sections 1153, 1154, and 1155, may do all of the following:

(1) Bring a civil action for injunctive relief or damages, or both, against the farm labor contractor and upon prevailing, shall recover reasonable attorney's fees.

(2) Enforce the liability on the farm labor contractor's bond.

SEC. 213 Section 1698.1 of the Labor Code is amended to read:

1698.1. No licensee shall sell, transfer or give away any interest in or the right to participate in the profits of said licensee's business without the written consent of the Labor Commissioner. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisonment for not more than 60 days, or both.

SEC. 214. Section 1700.30 of the Labor Code is amended to read.

1700.30. No licensee shall sell, transfer or give away any interest in or the right to participate in the profits of the talent agency without the written consent of the Labor Commissioner. A violation of this section shall constitute a misdemeanor, and shall be punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisonment for not more than 60 days, or both.

SEC 215 Section 2263 of the Labor Code is amended to read:

2263. Any violation of this article is a misdemeanor punishable by a fine of not less than fifty dollars ($50) for each offense It is a separate offense each day that an owner of a theater or moving picture house fails to comply with this article.

SEC. 216. Section 2354 of the Labor Code is amended to read:

2354. Any person violating this article is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment in the county jail for not less than 30 days nor more than 90 days, or both.

SEC. 217. Section 2441 of the Labor Code is amended to read:

2441. (a) Every employer of labor in this state shall, without making a charge therefor, provide fresh and pure drinking water to his employees during working hours. Access to such drinking water shall be permitted at reasonable and convenient times and places. Any violation of this section is punishable for each offense by a fine of not less than fifty dollars ($50), nor more than two hundred dollars ($200), or by imprisonment for not more than 30 days, or by both

such fine and imprisonment.

(b) The State Department of Health Services and all health officers of counties, cities, and health districts shall enforce the provisions of this section pursuant to subdivision (b) of Section 3703 of the Health and Safety Code. Such enforcement shall not be construed to abridge or limit in any manner the jurisdiction of the Division of Industrial Safety of the Department of Industrial Relations pursuant to Division 5 (commencing with Section 6300).

SEC. 218. Section 2805 of the Labor Code is amended to read:

2805. (a) No employer shall knowingly employ an alien who is not entitled to lawful residence in the United States if such employment would have an adverse effect on lawful resident workers.

(b) A person found guilty of a violation of subdivision (a) is punishable by a fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) for each offense.

(c) The foregoing provisions shall not be a bar to civil action against the employer based upon violation of subdivision (a).

SEC. 219. Section 6413.5 of the Labor Code is amended to read:

6413 5. Any person who fails to comply with any provision of subdivision (a) of Section 6409, Sections 6409.1, 6409.2, 6409.3, or 6410 is guilty of a misdemeanor punishable by a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200) This section may be enforced by the Division of Labor Statistics and Research through the Director of Industrial Relations in the same manner as provided in Section 3710.

SEC. 220 Section 6951 of the Labor Code is amended to read:

6951. Any railroad company operating a line in whole or in part within this state, or any receiver of any railroad, that fails to comply with any provision of section 6950 is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) for each offense. Each day that such failure continues is a separate offense

SEC. 221. Section 6952 of the Labor Code is amended to read:

6952. Every railroad company operating engines within any part of this state shall provide each engine cab with a substantial and safe handrail along the top on each side of the cab extending from the front to the rear of the cab Every engine cab other than one having front windows of not less than 14 inches in width and 42 inches in height shall be provided and equipped with a substantial and safe footboard, of not less than one and one-half inches, projecting outward from each side of the cab level with the floor and extending from the front to the rear of the cab.

Any railroad company, or receiver thereof, which fails to comply with any provisions of this section is guilty of a misdemeanor, punishable by a fine of two hundred dollars ($200) for each offense.

The provisions of this section shall not apply to any railroad company which issued in writing before July 2, 1921, and maintains in force, an order forbidding the engine or train crew to go from the

engine cab to that portion of the engine in front of the cab while the cab is in motion.

SEC. 222. Section 6956 of the Labor Code is amended to read:

6956. Any common carrier violating Sections 6953 or 6954 is guilty of a misdemeanor for each violation, punishable by a fine of not less than two hundred dollars ($200) for each offense. Each day that any electric car is operated in interurban service or that any electric locomotive is operated, is a separate offense.

SEC. 223. Section 7205 of the Labor Code is amended to read:

7205. Any person, or the agent or officer thereof, who violates any provision of this article is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000), or imprisonment in the county jail for not less than 30 days and not more than six months, or both.

SEC. 224. Section 7319 of the Labor Code is amended to read:

7319. All elevators used for the carriage of passengers shall be provided with a suitable seat for the operator in charge. Failure to comply with this section is a misdemeanor punishable by a fine not exceeding fifty dollars ($50) for each offense.

SEC. 225 Section 145 of the Military and Veterans Code is amended to read:

145. A person who, after publication of the proclamation authorized by Section 143, joins, participates or takes any part in a rebellion, insurrection, tumult or riot, or who is party to any conspiracy or combination to resist by force the execution of the laws or who resists or aids in resisting the execution of process in any county or city declared to be in a state of insurrection, or who aids or attempts the rescue or escape of another from lawful custody or confinement, or who resists or aids in resisting any force ordered out by the Governor to quell or suppress an insurrection, is punishable by a fine of not less than one thousand dollars ($1,000), or by imprisonment in the state prison not less than two years or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 226. Section 421 of the Military and Veterans Code is amended to read:

421. Any person who secretes, sells, disposes of, offers for sale, purchases, retains after demand made by a commissioned officer of the National Guard or of the unorganized militia when called into the service of the state or Naval Militia, or in any manner pawns or pledges any arms, uniforms, equipment, or military or naval property of the state or of the United States, or of any organization of the active militia or of the unorganized militia when called into the service of the state is guilty of a felony if said arms, uniforms, equipments, or military or naval property of the state or of the United States is of a value of four hundred dollars ($400) or more, otherwise such person is guilty of a misdemeanor.

SEC. 227. Section 422 of the Military and Veterans Code is amended to read·

422. Any person other than an officer, warrant officer, or enlisted man of the California National Guard, or of the unorganized militia when called into the service of the state or of the State Military Reserve or who may be appointed under Section 141 of this code or who may be authorized by Sections 502, 502.1, or 502.2 of this code or who may be a member of the Naval Militia of this state, or who may be a member of the military forces of another state or of the United States Army, United States Air Force, United States Navy, United States Marine Corps, United States Coast Guard Service or United States or State Forest Service or personnel of the Department of Fish and Game or members of the State Highway Patrol, or an inmate of any veterans' or soldiers' home, or other person authorized by the laws of the United States or of this state, who at any time wears the uniform of the United States Army, United States Air Force, or United States Navy or of the armed forces of the United States or any organization thereof or National Guard or Naval Militia, or any part of such uniform, or a uniform or part of a uniform similar thereto, is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or by imprisonment in the county jail not exceeding 60 days, or by both.

SEC. 228. Section 424 of the Military and Veterans Code is amended to read:

424. Any person, who at any time wears the uniform of, or a uniform similar to that of, a foreign military or semimilitary organization without being a member thereof and being entitled to do so, is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or by imprisonment in the county jail not exceeding 60 days or by both such fine and imprisonment.

The provisions of this section shall not apply to the wearing of such uniforms by actors during the filming of any motion picture or the presentation of any stage play.

SEC. 229. Section 1673 of the Military and Veterans Code is amended to read:

1673. Any person who attempts to commit any of the crimes defined by this chapter is punishable as provided in Section 664 of the Penal Code, except that attempts to commit crimes defined by Sections 1670 and 1671 are punishable by imprisonment in the state prison for two, three or four years or by a fine of not more than ten thousand dollars ($10,000), or both. In addition to the acts which constitute an attempt to commit a crime under the law of this state, the solicitation or incitement of another to commit any of the crimes defined by this chapter not followed by the commission of the crime, the collection or assemblage of any materials with the intent that they are to be used then or at a later time in the commission of such crime, or the entry, with or without permission, of a building, enclosure, or other premises of another with the intent to commit any such crime constitutes an attempt to commit such crime.

SEC. 230. Section 1820 of the Military and Veterans Code is amended to read:

1820. Any person who willfully wears or uses the badge, lapel button, rosette, or other recognized and estimable insignia of the American Legion, Disabled American Veterans, or Veterans of Foreign Wars, unless he is entitled to wear or use it under the rules and regulations and with the express permission of the American Legion, Disabled American Veterans, or Veterans of Foreign Wars, is guilty of a misdemeanor and is punishable for a first conviction by imprisonment for a term not to exceed 30 days in the county jail, or a fine not to exceed five hundred dollars ($500), except that if the person has been previously convicted of a violation of this section, that conviction shall be specified in the accusation and if found to be true or admitted by the person, a second or succeeding violation of this section is punishable by imprisonment not to exceed six months in the county jail, or a fine not to exceed one thousand dollars ($1,000), or both such fine and imprisonment.

Nothing in this section shall preclude prosecution for violation of any other law.

SEC. 231. Section 19 of the Penal Code is amended to read:

19. Except in cases where a different punishment is prescribed by any law of this state, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both

SEC. 232. Section 69 of the Penal Code is amended to read:

69. Every person who attempts, by means of any threat or violence, to deter or prevent an executive officer from performing any duty imposed upon such officer by law, or who knowingly resists, by the use of force or violence, such officer, in the performance of his duty, is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 233. Section 71 of the Penal Code is amended to read.

71. Every person who, with intent to cause, attempts to cause, or causes, any officer or employee of any public or private educational institution or any public officer or employee to do, or refrain from doing, any act in the performance of his duties, by means of a threat, directly communicated to such person, to inflict an unlawful injury upon any person or property, and it reasonably appears to the recipient of the threat that such threat could be carried out, is guilty of a public offense punishable as follows:

(1) Upon a first conviction, such person is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

(2) If such person has been previously convicted of a violation of this section, such previous conviction shall be charged in the accusatory pleading, and if such previous conviction is found to be

true by the jury, upon a jury trial, or by the court, upon a court trial, or is admitted by the defendant, he is punishable by imprisonment in the state prison.

As used in this section, "directly communicated" includes, but is not limited to, a communication to the recipient of the threat by telephone, telegraph, or letter.

SEC. 234. Section 74 of the Penal Code is amended to read:

74. Every public officer who, for any gratuity or reward, appoints another person to a public office, or permits another person to exercise or discharge any of the duties of his office, is punishable by a fine not exceeding ten thousand dollars ($10,000), and, in addition thereto, forfeits his office and is forever disqualified from holding any office in this state.

SEC. 235. Section 95 of the Penal Code is amended to read:

95. Every person who corruptly attempts to influence a juror, or any person summoned or drawn as a juror, or chosen as an arbitrator, or umpire, or appointed a referee, in respect to his verdict in, or decision of any cause, or proceeding, pending, or about to be brought before him, either:

One—By means of any communication, oral or written, had with him except in the regular course of proceedings;

Two—By means of any book, paper, or instrument exhibited, otherwise than in the regular course of proceedings;

Three—By means of any threat, intimidation, persuasion, or entreaty; or,

Four—By means of any promise, or assurance of any pecuniary or other advantage;

—is punishable by fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison.

SEC. 236. Section 96 of the Penal Code is amended to read:

96. Every juror, or person drawn or summoned as a juror, or chosen arbitrator or umpire, or appointed referee, who either:

One—Makes any promise or agreement to give a verdict or decision for or against any party; or,

Two—Willfully and corruptly permits any communication to be made to him, or receives any book, paper, instrument, or information relating to any cause or matter pending before him, except according to the regular course of proceedings,

is punishable by fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison.

SEC. 237. Section 99 of the Penal Code is amended to read:

99. The Superintendent of State Printing shall not, during his continuance in office, have any interest, either directly or indirectly, in any contract in any way connected with his office as Superintendent of State Printing, nor shall he, during said period, be interested, either directly or indirectly, in any state printing, binding, engraving, lithographing, or other state work of any kind connected with his said office; nor shall he, directly or indirectly, be interested in any contract for furnishing paper, or other printing

stock or material, to or for use in his said office; and any violations of these provisions shall subject him, on conviction before a court of competent jurisdiction, to imprisonment in the state prison and to a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 238. Section 100 of the Penal Code is amended to read:

100. If the Superintendent of State Printing corruptly colludes with any person or persons furnishing paper or materials, or bidding therefor, or with any other person or persons, or has any secret understanding with him or them, by himself or through others, to defraud the state, or by which the state is defrauded or made to sustain a loss, contrary to the true intent and meaning of this chapter, he, upon conviction thereof, forfeits his office, and is subject to imprisonment in the state prison, and to a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or both such fine and imprisonment.

SEC. 239. Section 142 of the Penal Code is amended to read:

142. (a) Any peace officer who has the authority to receive or arrest a person charged with a criminal offense and willfully refuses to receive or arrest such person shall be punished by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

(b) Notwithstanding subdivision (a), the sheriff may determine whether any jail, institution, or facility under his direction shall be designated as a reception, holding, or confinement facility, or shall be used for several of such purposes, and may designate the class of prisoners for which such facility shall be used.

SEC. 240. Section 147 of the Penal Code is amended to read:

147. Every officer who is guilty of willful inhumanity or oppression toward any prisoner under his care or in his custody, is punishable by fine not exceeding four thousand dollars ($4,000), and by removal from office.

SEC. 241. Section 148.3 of the Penal Code is amended to read:

148.3. (a) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that such report is false, is guilty of a misdemeanor and, upon conviction thereof, shall be punishable by imprisonment in the county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

(b) Any individual who reports, or causes any report to be made, to any city, county, city and county, or state department, district, agency, division, commission, or board, that an "emergency" exists, knowing that such report is false, and great bodily injury or death is sustained by any person as a result of such false report, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison, or by a fine of not more than ten

thousand dollars ($10,000), or by both such fine and imprisonment.

(c) "Emergency" as used in this section means any condition which results in, or which could result in, the response of a public official in an authorized emergency vehicle, or any condition which jeopardizes or could jeopardize public safety and results in, or could result in, the evacuation of any area, building, structure, vehicle or of any other place which any individual may enter.

SEC. 242. Section 148.4 of the Penal Code is amended to read:

148.4. (a) Any person who willfully and maliciously tampers with, molests, injures, or breaks any fire protection equipment, fire protection installation, fire alarm apparatus, wire, or signal, or willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any fire alarm system or signal or by any other means or methods, is guilty of a misdemeanor and upon conviction thereof shall be punishable by imprisonment in the county jail, not exceeding one year, or by a fine, not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

(b) Any person who willfully and maliciously sends, gives, transmits, or sounds any false alarm of fire, by means of any fire alarm system or signal, or by any other means or methods, and great bodily injury or death is sustained by any person as a result thereof, is guilty of a felony and upon conviction thereof shall be punishable by imprisonment in the state prison or by a fine of not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 243. Section 149 of the Penal Code is amended to read:

149. Every public officer who, under color of authority, without lawful necessity, assaults or beats any person, is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 244. Section 153 of the Penal Code is amended to read:

153. Every person who, having knowledge of the actual commission of a crime, takes money or property of another, or any gratuity or reward, or any engagement, or promise thereof, upon any agreement or understanding to compound or conceal such crime, or to abstain from any prosecution thereof, or to withhold any evidence thereof, except in the cases provided for by law, in which crimes may be compromised by leave of court, is punishable as follows:

1. By imprisonment in the state prison, or in a county jail not exceeding one year, where the crime was punishable by death or imprisonment in the state prison for life;

2. By imprisonment in the state prison, or in the county jail not exceeding six months, where the crime was punishable by imprisonment in the state prison for any other term than for life;

3. By imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), where the crime was a misdemeanor.

SEC 245. Section 154 of the Penal Code is amended to read:

154. Every debtor who fraudulently removes his property or effects out of this state, or fraudulently sells, conveys, assigns or conceals his property with intent to defraud, hinder or delay his creditors of their rights, claims or demands, is punishable by imprisonment in the county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both; provided, however, that where the property so removed or sold or conveyed or assigned or concealed, consists of a stock in trade or a part thereof, of a value exceeding one hundred dollars, the offense shall be a felony and punishable as such.

SEC. 246. Section 158 of the Penal Code is amended to read:

158. Common barratry is the practice of exciting groundless judicial proceedings, and is punishable by imprisonment in the county jail not exceeding six months and by fine not exceeding one thousand dollars ($1,000).

SEC. 247. Section 182 of the Penal Code is amended to read:

182. If two or more persons conspire:

1. To commit any crime.

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

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

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

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

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

They are punishable as follows:

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

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

If the felony is conspiracy to commit two or more felonies which have different punishments and the commission of such felonies

constitute but one offense of conspiracy, the penalty shall be that prescribed for the felony which has the greater maximum term.

When they conspire to do an act described in subdivision 4 of this section, they shall be punishable by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year, or by a fine not exceeding ten thousand dollars ($10,000), or both.

When they conspire to do any of the other acts described in this section they shall be punishable by imprisonment in the county jail for not more than one year, or in the state prison, or by a fine not exceeding ten thousand dollars ($10,000) or both.

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

SEC. 248. Section 219.2 of the Penal Code is amended to read:

219.2. Every person who willfully throws, hurls, or projects a stone or other hard substance, or shoots a missile, at a train, locomotive, railway car, caboose, cable railway car, street railway car, or bus or at a steam vessel or watercraft used for carrying passengers or freight on any of the waters within or bordering on this state, is punishable by imprisonment in the county jail not exceeding one year, or in a state prison, or by fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment.

SEC. 249. Section 237 of the Penal Code is amended to read:

237. False imprisonment is punishable by fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not more than one year, or by both. If such false imprisonment be effected by violence, menace, fraud, or deceit, it shall be punishable by imprisonment in the state prison.

SEC. 250 Section 241 of the Penal Code is amended to read:

241. (a) An assault is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(b) When an assault is committed against the person of a peace officer, firefighter, emergency medical technician, or mobile intensive care paramedic, engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that such victim is a peace officer, firefighter, emergency medical technician, or mobile intensive care paramedic, engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the assault is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(c) As used in this section:

(1) Peace officer means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing

a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Mobile intensive care paramedic" refers to those persons who meet the standards set forth in Section 1481 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

SEC. 251. Section 241.4 of the Penal Code is amended to read:

241.4. An assault is punishable by fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer engaged in the performance of his duties as a member of a security department of a school district pursuant to Section 39670 of the Education Code, and the person committing the offense knows or reasonably should know that such victim is such a peace officer engaged in the performance of his duties, the offense shall be punished by imprisonment in the county jail not exceeding one year or by imprisonment in the state prison.

SEC. 252. Section 243 of the Penal Code is amended to read:

243. (a) A battery is punishable by a fine of not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(b) When a battery is committed against the person of a peace officer, custodial officer, firefighter, emergency medical technician, or mobile intensive care paramedic, engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a private capacity for a public entity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that such victim is a peace officer, custodial officer, firefighter, emergency medical technician, or mobile intensive care paramedic, engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, the battery is punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(c) When a battery is committed against a peace officer, custodial officer, firefighter, emergency medical technician, or mobile intensive care paramedic, engaged in the performance of his or her duties, whether on or off duty, including when the peace officer is in a police uniform and is concurrently performing the duties required of him or her as a peace officer while also employed in a

private capacity for a public entity as a part-time or casual private security guard or patrolman, or a physician or nurse engaged in rendering emergency medical care outside a hospital, clinic, or other health care facility, and the person committing the offense knows or reasonably should know that such victim is a peace officer, custodial officer, firefighter, emergency medical technician, or mobile intensive care paramedic, engaged in the performance of his or her duties, or a physician or nurse engaged in rendering emergency medical care, and an injury is inflicted on that victim, the battery is punishable by imprisonment in the county jail for a period of not more than one year, or by a fine of not more than two thousand dollars ($2,000), or by imprisonment in the state prison for 16 months, or two or three years.

(d) When a battery is committed against any person and serious bodily injury is inflicted on the person, the battery is punishable by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

(e) As used in this section:

(1) "Peace officer" means any person defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(2) "Emergency medical technician" means a person possessing a valid course completion certificate from a program approved by the State Department of Health Services for the medical training and education of ambulance personnel, and who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(3) "Mobile intensive care paramedic" means any person who meets the standards set forth in Section 1481 of, and Division 2.5 (commencing with Section 1797) of, the Health and Safety Code.

(4) "Nurse" means a person who meets the standards of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

(5) "Serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

(6) "Injury" means any physical injury which requires professional medical treatment

(7) "Custodial officer" means any person who has the responsibilities and duties described in Section 831 and who is employed by a law enforcement agency of any city or county or who performs those duties as a volunteer.

It is the intent of the Legislature by amendments to this section at the 1981–82 Regular Session to abrogate the holdings in cases such as People v. Corey, 21 Cal. 3d 783, and Cervantez v. J.C. Penney Co., 24 Cal. 3d 579, and to reinstate prior judicial interpretations of this section as they relate to criminal sanctions for battery on peace officers who are employed, on a part-time or casual basis, by a public entity, while wearing a police uniform as private security guards or

patrolmen and to allow the exercise of peace officer powers concurrently with such employment.

SEC. 253. Section 245 of the Penal Code is amended to read:

245. (a) (1) Every person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for two, three or four years, or in a county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

(2) Every person who commits an assault upon the person of another with a firearm is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail for a term of not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars ($10,000) and imprisonment.

(b) Every person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or fireman, and who knows or reasonably should know that the victim is a peace officer or fireman engaged in the performance of his or her duties, when such peace officer or fireman is engaged in the performance of his or her duties shall be punished by imprisonment in the state prison for three, four, or five years.

(c) Every person who commits an assault with a firearm upon the person of a peace officer or fireman, and who knows or reasonably should know that the victim is a peace officer or fireman engaged in the performance of his or her duties, when the peace officer or fireman is engaged in the performance of his or her duties shall be punished by imprisonment in the state prison for four, six, or eight years.

(d) When a person is convicted of a violation of this section, in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance and it shall be confiscated and disposed of in the manner provided by Section 12028.

(e) As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

SEC. 254. Section 249 of the Penal Code is amended to read:

249. Every person who willfully, and with a malicious intent to injure another, publishes or procures to be published any libel, is punishable by fine not exceeding ten thousand dollars (10,000), or imprisonment in the county jail not exceeding one year.

SEC. 255. Section 258 of the Penal Code is amended to read:

258. Slander is a malicious defamation, orally uttered, whether or not it be communicated through or by radio or any mechanical or other means or device whatsoever, tending to blacken the memory of one who is dead, or to impeach the honesty, integrity, virtue or

reputation, or disclose the actual or alleged defects of one who is living, or of any educational, literary, social, fraternal, benevolent or religious corporation, association or organization, and thereby to expose him or it to public hatred, contempt, or ridicule. Every person who willfully, and with a malicious intent to injure another, utters any slander, is punishable by a fine not exceeding ten thousand dollars ($10,000), or imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. Words uttered in the proper discharge of an official duty, or in any legislative or judicial proceeding, or in any other official proceeding authorized by law, shall be privileged and shall never be deemed a slander within the meaning of this section

SEC. 256. Section 266 of the Penal Code is amended to read:

266. Every person who inveigles or entices any unmarried female, of previous chaste character, under the age of 18 years, into any house of ill fame, or of assignation, or elsewhere, for the purpose of prostitution, or to have illicit carnal connection with any man; and every person who aids or assists in such inveiglement or enticement; and every person who, by any false pretenses, false representation, or other fraudulent means, procures any female to have illicit carnal connection with any man, is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment.

SEC. 257. Section 266a of the Penal Code is amended to read:

266a. Every person who, within this state, takes any person against his or her will and without his or her consent, or with his or her consent procured by fraudulent inducement or misrepresentation, for the purpose of prostitution, as defined in subdivision (b) of Section 647, is punishable by imprisonment in the state prison, and a fine not exceeding two thousand dollars ($2,000).

SEC. 258. Section 267 of the Penal Code is amended to read:

267. Every person who takes away any other person under the age of 18 years from the father, mother, guardian, or other person having the legal charge of the other person, without their consent, for the purpose of prostitution, is punishable by imprisonment in the state prison, and a fine not exceeding two thousand dollars ($2,000).

SEC. 259. Section 270 of the Penal Code is amended to read:

270. If a parent of a minor child willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter or medical attendance, or other remedial care for his or her child, he or she is guilty of a misdemeanor punishable by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment. If a court of competent jurisdiction has made a final adjudication in either a civil or a criminal action that a person is the parent of a minor child and the person has notice of such adjudication and he or she then willfully omits, without lawful excuse, to furnish necessary clothing, food, shelter, medical attendance or other remedial care for his or

her child, this conduct is punishable by imprisonment in the county jail not exceeding one year or in a state prison not exceeding one year and one day, or by a fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment. This statute shall not be construed so as to relieve such parent from the criminal liability defined herein for such omission merely because the other parent of such child is legally entitled to the custody of such child nor because the other parent of such child or any other person or organization voluntarily or involuntarily furnishes such necessary food, clothing, shelter or medical attendance or other remedial care for such child or undertakes to do so.

Proof of abandonment or desertion of a child by such parent, or the omission by such parent to furnish necessary food, clothing, shelter or medical attendance or other remedial care for his or her child is prima facie evidence that such abandonment or desertion or omission to furnish necessary food, clothing, shelter or medical attendance or other remedial care is willful and without lawful excuse.

The court, in determining the ability of the parent to support his or her child, shall consider all income, including social insurance benefits and gifts.

The provisions of this section are applicable whether the parents of such child are or were ever married or divorced, and regardless of any decree made in any divorce action relative to alimony or to the support of the child. A child conceived but not yet born is to be deemed an existing person insofar as this section is concerned.

The husband of a woman who bears a child as a result of artificial insemination shall be considered the father of that child for the purpose of this section, if he consented in writing to the artificial insemination.

If a parent provides a minor with treatment by spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof, such treatment shall constitute "other remedial care", as used in this section.

SEC. 260. Section 271 of the Penal Code is amended to read:

271. Every parent of any child under the age of 14 years, and every person to whom any such child has been confided for nurture, or education, who deserts such child in any place whatever with intent to abandon it, is punishable by imprisonment in the state prison or in the county jail not exceeding one year or by fine not exceeding one thousand dollars ($1,000) or by both.

SEC. 261. Section 271a of the Penal Code is amended to read:

271a. Every person who knowingly and willfully abandons, or who, having ability so to do, fails or refuses to maintain his or her minor child under the age of 14 years, or who falsely, knowing the same to be false, represents to any manager, officer or agent of any orphan asylum or charitable institution for the care of orphans, that any child for whose admission into such asylum or institution

application has been made is an orphan, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 262. Section 273.6 of the Penal Code is amended to read:

273.6. (a) Any willful and knowing violation of any of the following court orders, when obtained pursuant to Section 4359, 4458, 4516, 7020, or 7021 of the Civil Code, Section 527.6 of the Code of Civil Procedure, or Chapter 4 (commencing with Section 540) of Title 7 of Part 2 of the Code of Civil Procedure, shall be a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than 6 months or by both such fine and imprisonment:

(1) An order enjoining any party from molesting, attacking, striking, threatening, sexually assaulting, battering, harassing, or disturbing the peace of the other party, or other named family and household members.

(2) An order excluding one party from the family dwelling or from the dwelling of the other.

(3) An order enjoining a party from specified behavior which the court determined was necessary to effectuate the orders under subdivision (a) or (b).

(b) Any person who willfully and knowingly violates an order obtained pursuant to Section 527.6 of the Code of Civil Procedure shall be punishable as provided in subdivision (a). However, a person who has previously been convicted one or more times of violating an order obtained pursuant to Section 527.6 of the Code of Civil Procedure upon charges separately brought and tried, shall be imprisoned in the county jail for not more than one year. Subject to the discretion of the court, the prosecution shall have the opportunity to present witnesses and relevant evidence at the time of the sentencing of a defendant pursuant to this subdivision.

(c) The prosecuting agency of each county shall have the primary responsibility for the enforcement of orders issued pursuant to the provisions listed in subdivisions (a) and (b).

SEC. 263. Section 276 of the Penal Code is amended to read:

276. Every person who solicits any woman to submit to any operation, or to the use of any means whatever, to procure a miscarriage, except as provided in the Therapeutic Abortion Act, Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code, is punishable by imprisonment in the county jail not longer than one year or in the state prison, or by fine of not more than ten thousand dollars ($10,000) Such offense must be proved by the testimony of two witnesses, or of one witness and corroborating circumstances.

SEC. 264. Section 283 of the Penal Code is amended to read:

283. Bigamy is punishable by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment in a county jail not exceeding one year or in the state prison.

SEC 265. Section 308 of the Penal Code is amended to read:

308 (a) Every person, firm or corporation which knowingly sells or gives or in any way furnishes to another person who is under the age of 18 years any tobacco, cigarette, or cigarette papers, or any other preparation of tobacco, or any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, products prepared from tobacco, or any controlled substance, is guilty of a misdemeanor.

(b) Every person, firm or corporation which sells, or deals in tobacco or any preparation thereof, shall post conspicuously and keep so posted in his or their place of business a copy of this act, and any such person failing to do so shall upon conviction be punished by a fine of ten dollars ($10) for the first offense and fifty dollars ($50) for each succeeding violation of this provision, or by imprisonment for not more than 30 days.

The Secretary of State is hereby authorized to have printed sufficient copies of this act to enable him to furnish dealers in tobacco with copies thereof upon their request for the same.

(c) Nothing in this section or any other provision of law shall invalidate an ordinance of, or be construed to prohibit the adoption of an ordinance by, a city or county or a city and county regulating the sale or display to persons under the age of 18 years of items described in this section

SEC. 266. Section 310 of the Penal Code is amended to read:

310. Any minor under the age of 16 years who visits or attends any prizefight, cockfight, or place where any prizefight, or cockfight, is advertised to take place, and any owner, lessee, or proprietor, or the agent of any owner, lessee, or proprietor of any place where any prizefight or cockfight is advertised or represented to take place who admits any minor to a place where any prizefight or cockfight is advertised or represented to take place or who admits, sells or gives to any such minor a ticket or other paper by which such minor may be admitted to a place where a prizefight or cockfight is advertised to take place, is guilty of a misdemeanor, and is punishable by a fine of not exceeding one hundred dollars ($100) or by imprisonment in the county jail for not more than 25 days.

SEC. 267. Section 330 of the Penal Code is amended to read:

330. Every person who deals, plays, or carries on, opens, or causes to be opened, or who conducts, either as owner or employee, whether for hire or not, any game of faro, monte, roulette, lansquenet, rouge et noire, rondo, tan, fan-tan, stud-horse poker, seven-and-a-half, twenty-one, hokey-pokey, or any banking or percentage game played with cards, dice, or any device, for money, checks, credit, or other representative of value, and every person who plays or bets at or against any of said prohibited games, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 268. Section 330a of the Penal Code is amended to read:

330a. Every person, who has in his possession or under his control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained or kept, in any room, space, inclosure or building owned, leased or occupied by him, or under his management or control, any slot or card machine, contrivance, appliance or mechanical device, upon the result of action of which money or other valuable thing is staked or hazarded, and which is operated, or played, by placing or depositing therein any coins, checks, slugs, balls, or other articles or device, or in any other manner and by means whereof, or as a result of the operation of which any merchandise, money, representative or articles of value, checks, or tokens, redeemable in, or exchangeable for money or any other thing of value, is won or lost, or taken from or obtained from such machine, when the result of action or operation of such machine, contrivance, appliance, or mechanical device is dependent upon hazard or chance, and every person, who has in his possession or under his control, either as owner, lessee, agent, employee, mortgagee, or otherwise, or who permits to be placed, maintained or kept, in any room, space, inclosure or building, owned, leased or occupied by him, or under his management or control, any card dice, or any dice having more than six faces or bases each, upon the result of action of which any money or other valuable thing is staked or hazarded, or as a result of the operation of which any merchandise, money, representative or article of value, check or token, redeemable in or exchangeable for money or any other thing of value, is won or lost or taken, when the result of action or operation of such dice is dependent upon hazard or chance, is guilty of a misdemeanor, and shall be punishable by a fine not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 269. Section 330.1 of the Penal Code is amended to read:

330.1. Every person who manufactures, owns, stores, keeps, possesses, sells, rents, leases, lets on shares, lends or gives away, transports or exposes for sale or lease or offers to sell, rent, lease, let on shares, lend or give away or who permits the operation of or permits to be placed, maintained, used or kept in any room, space or building owned, leased or occupied by him or under his management or control, any slot machine or device as hereinafter defined, and every person who makes or permits to be made with any person any agreement with reference to any slot machine or device as hereinafter defined, pursuant to which agreement the user thereof, as a result of any element of hazard or chance, may become entitled to receive anything of value or additional chance or right to use such slot machine or device, or to receive any check, slug, token or memorandum, whether of value or otherwise, entitling the holder to receive anything of value, is guilty of a misdemeanor and shall be punishable by a fine of not more than one thousand dollars ($1,000)

or by imprisonment in the county jail not exceeding six months or by both such fine and imprisonment A slot machine or device within the meaning of Sections 330.1 to 330.5, inclusive, of this code is one that is, or may be, used or operated in such a way that, as a result of the insertion of any piece of money or coin or other object such machine or device is caused to operate or may be operated or played, mechanically, electrically, automatically or manually, and by reason of any element of hazard or chance, the user may receive or become entitled to receive anything of value or any check, slug, token or memorandum, whether of value or otherwise, which may be given in trade, or the user may secure additional chances or rights to use such machine or device, irrespective of whether it may, apart from any element of hazard or chance also sell, deliver or present some merchandise, indication of weight, entertainment or other thing of value.

SEC. 270. Section 337.4 of the Penal Code is amended to read:

337.4. Any person who in the commission of touting obtains money in excess of four hundred dollars ($400) may, in addition to being prosecuted for the violation of any provision of this chapter, be prosecuted for the violation of Section 487 of this code.

SEC. 271. Section 351a of the Penal Code is amended to read:

351a. Any person who sells, attempts to sell, offers for sale or assists in the sale of any goods, product or output, and who willfully and falsely represents such goods, product or output to be the goods, product or output of any dealer, manufacturer or producer, other than the true dealer, manufacturer or producer, or any member of a firm or any officer of a corporation, who knowingly permits any employee of such firm or corporation to sell, offer for sale or assist in the sale of any goods, product or output or to falsely represent such goods, product or output to be the goods, product or output of any dealer, manufacturer or producer, other than the true dealer, manufacturer or producer, is guilty of a misdemeanor and punishable by a fine of not less than one hundred dollars ($100) or more than six hundred dollars ($600), or by imprisonment in the county jail for not less than 20 or more than 90 days, or both This section shall not apply to any person who sells or offers for sale under his own name or brand the product or output of another manufacturer or producer with the written consent of such manufacturer or producer.

SEC. 272. Section 374b of the Penal Code is amended to read:

374b. It shall be unlawful to dump or cause to be dumped any waste matter in or upon any public or private highway or road, including any portion of the right-of-way thereof, or in or upon any private property into or upon which the public is admitted by easement or license, or upon any private property without the consent of the owner, or in or upon any public park or other public property other than property designated or set aside for such purpose by the governing board or body having charge thereof. It shall be unlawful to place, deposit, or dump, or cause to be placed,

deposited, or dumped, any rocks or dirt in or upon any private highway or road, including any portion of the right-of-way thereof, or any private property, without the consent of the owner, or in or upon any public park or other public property, without the consent of the state or local agency having jurisdiction over such highway, road, or property. Any person, firm, or corporation violating the provisions of this section shall be guilty of an infraction. Each day that waste placed, deposited, or dumped in violation of this section remains shall be a separate violation.

No portion of this section shall be construed to restrict a private owner in the use of his own private property, unless the placing, depositing, or dumping of such waste matter on such property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local health department, local fire department or district providing fire protection services, or the Department of Forestry, in which case the provisions of this section shall apply.

Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than two hundred dollars ($200) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

The court may require, in addition to any fine imposed upon a conviction, that, as a condition of probation and in addition to any other condition of probation, a person convicted under this section remove, or pay the cost of removing, any waste matter which the convicted person dumped or caused to be dumped upon public or private property.

Except when the court requires the convicted person to remove waste matter which he or she is responsible for dumping as a condition of probation, the court may, in addition to the fine imposed upon a second or subsequent conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section pick up waste matter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

SEC. 273. Section 374b.5 of the Penal Code is amended to read:

374b.5. It shall be unlawful to litter or cause to be littered in or upon any public or private property. Any person, firm, or corporation violating the provisions of this section shall be guilty of an infraction.

No portion of this section shall be construed to restrict a private owner in the use of his or her own property, unless the littering of waste matter on such property creates a public health and safety hazard, a public nuisance, or a fire hazard, as determined by a local

health department, local fire department or district providing fire protection services, or the Department of Forestry, in which case the provisions of this section shall apply. As used in this section, "litter" means the discarding, dropping, or scattering of small quantities of waste matter ordinarily carried on or about the person, including, but not limited to, beverage containers and closures, packaging, wrappers, wastepaper, newspapers, and magazines, in a place other than a place or container for the proper disposal thereof, and including waste matter which escapes or is allowed to escape from a container, receptacle, or package.

Every person, firm, or corporation convicted of a violation of this section shall be punished by a mandatory fine of twenty dollars ($20) upon a first conviction, by a mandatory fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a second or subsequent conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

SEC. 274. Section 374e of the Penal Code is amended to read:

374e. Every person who litters or causes to be littered, or dumps, or causes to be dumped, any waste matter into any bay, lagoon, channel, river, creek, slough, canal, lake or reservoir, or other stream or body of water, or upon a bank, beach or shore within 150 feet of the high water mark of any such water, is guilty of a misdemeanor.

Every person convicted of a violation of this section shall be punished by a mandatory fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a second or subsequent conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section, pick up litter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

SEC. 275. Section 381a of the Penal Code is amended to read:

381a. Any person, or persons, whether as principals, agents, managers, or otherwise, who buy or sell dairy products, or deal in milk, cream or butter, and who buy or sell the same upon the basis

of their richness or weight or the percentage of cream, or butter-fat contained therein, who use any apparatus, test bottle or other appliance, or who use the "Babcock test" or machine of like character for testing such dairy products, cream or butter, which is not accurate and correct, or which gives wrong or false percentages, or which is calculated in any way to defraud or injure the person with whom he deals, is guilty of a misdemeanor, and upon conviction shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail not more than six (6) months.

SEC. 276 Section 382.5 of the Penal Code is amended to read:

382.5. Every person who sells, dispenses, administers or prescribes dinitrophenol for any purpose shall be guilty of a felony, punishable by a fine not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment in the state prison, or by both such fine and imprisonment.

This section shall not apply to dinitrophenol manufactured or sold as an economic poison registered under the provision of Section 1071 of the Food and Agricultural Code nor to sales for use in manufacturing or for scientific purposes, and not for human consumption.

SEC. 277. Section 382.6 of the Penal Code is amended to read:

382.6. Every person who sells, dispenses, administers or prescribes preparations containing diphenylamine, paraphenylenediamine, or paratoluylenediamine, or a derivative of any such chemicals, to be used as eyebrow and eyelash dye, shall be guilty of a felony, punishable by a fine not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000), or by imprisonment in the state prison, or by both such fine and imprisonment

SEC. 278. Section 383b of the Penal Code is amended to read:

383b. Every person who with intent to defraud, sells or exposes for sale any meat or meat preparations, and falsely represents the same to be kosher, whether such meat or meat preparations be raw or prepared for human consumption, or as having been prepared under and from a product or products sanctioned by the orthodox Hebrew religious requirements; or falsely represents any food product, or the contents of any package or container, to be so constituted and prepared, by having or permitting to be inscribed thereon the words "kosher" in any language, or sells or exposes for sale in the same place of business both kosher and nonkosher meat or meat preparations, either raw or prepared for human consumption, who fails to indicate on his window signs in all display advertising in block letters at least four inches in height "kosher and nonkosher meats sold here"; or who exposes for sale in any show window or place of business as both kosher and nonkosher meat preparations, either raw or prepared for human consumption, who fails to display over each kind of meat or meat preparation so exposed a sign in block letters at least four inches in height, reading "kosher meat" or "nonkosher meat" as the case may be; or sells or exposes

for sale in any restaurant or any other place where food products are sold for consumption on the premises, any article of food or food preparations and falsely represents the same to be kosher, or as having been prepared in accordance with the orthodox Hebrew religious requirements; or sells or exposes for sale in such restaurant, or such other place, both kosher and nonkosher food or food preparations for consumption on the premises, not prepared in accordance with the Jewish ritual, or not sanctioned by the Hebrew orthodox religious requirements, and who fails to display on his window signs in all display advertising, in block letters at least four inches in height "kosher and nonkosher food served here" is guilty of a misdemeanor and upon conviction thereof be punishable by a fine of not less than one hundred dollars ($100), nor more than six hundred dollars ($600), or imprisonment in the county jail of not less than 30 days, nor more than 90 days, or both such fine and imprisonment.

The word "kosher" is here defined to mean a strict compliance with every Jewish law and custom pertaining and relating to the killing of the animal or fowl from which the meat is taken or extracted, the dressing, treatment and preparation thereof for human consumption, and the manufacture, production, treatment and preparation of such other food or foods in connection wherewith Jewish laws and customs obtain and to the use of tools, implements, vessels, utensils, dishes and containers that are used in connection with the killing of such animals and fowls and the dressing, preparation, production, manufacture and treatment of such meats and other products, foods and food stuffs.

SEC. 279. Section 384.5 of the Penal Code is amended to read:

384.5. (a) Except within the Counties of Santa Barbara, Ventura, Los Angeles, Orange, San Diego, San Bernardino, Riverside, and Imperial, any person who removes any minor forest products from the property where such products were cut and transports such products upon any public road or highway shall have in his or her possession a valid bill of sale for such products or a written permit issued by the owner of the property from which such products were removed authorizing such removal and transport. Any such permit or bill of sale shall include, but is not limited to, all of the following:

(1) The name, address, and signature of the landowner, and phone number, if available.

(2) The name, address, and signature of the permittee or purchaser.

(3) The amount, species, and type of minor forest products to be removed and transported.

(4) A description sufficient to identify the property from which the minor forest products are to be removed.

(5) The date of issuance of the permit or bill of sale and the duration of the period of time within which the minor forest products may be removed.

(6) Such conditions or additional information which the

landowner may impose or include.

Any permit for the removal of minor forest products from public lands that is issued by the United States Forest Service or the Bureau of Land Management is sufficient for the purposes of this subdivision, regardless of whether such permit conforms to the specific requirements as to content set forth in this subdivision.

For the purposes of this subdivision "minor forest products" means firewood, posts, shakeboards, shake and shingle bolts, or split products, in quantities exceeding 20 cubic feet in volume, and burlwood or stumps, in quantities of two or more.

(b) The provisions of this section shall not apply to the transport of any minor forest products carried in a passenger vehicle, as defined in Section 465 of the Vehicle Code.

(c) Violation of subdivision (a) is a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in a county jail for not more than six months or by both such fine and imprisonment.

SEC. 280. Section 384a of the Penal Code is amended to read.

384a. Every person who within the State of California willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon state or county highway rights-of-way, or who removes leaf mold thereon; provided, however, that the provisions of this section shall not be construed to apply to any employee of the state or of any political subdivision thereof engaged in work upon any state, county, or public road or highway while performing work under the supervision of the state or of any political subdivision thereof, and every person who willfully or negligently cuts, destroys, mutilates, or removes any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portions of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, growing upon public land or upon land not his or her own, or leaf mold on the surface of public land, or upon land not his or her own, without a written permit from the owner of the land signed by the owner or the owner's authorized agent, and every person who knowingly sells, offers, or exposes for sale, or transports for sale, any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or portion of any tree or shrub, or fern or herb or bulb or cactus or flower, or huckleberry or redwood greens, or leaf mold, so cut or removed from state or county highway rights-of-way, or removed from public land or from land not owned by the person who cut or removed the same without the written permit from the owner of the land, signed by the owner or the owner's authorized agent, is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment in a county jail for not more than six months or by both fine and imprisonment.

The written permit required under this section shall be signed by the landowner, or the landowner's authorized agent, and acknowledged before a notary public, or other person authorized by law to take acknowledgments. The permit shall contain the number and species of trees and amount of shrubs or ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens, or portions of any tree or shrub and shall contain the legal description of the real property as usually found in deeds and conveyances of the land on which cutting or removal, or both, shall take place. One copy of the permit shall be filed in the office of the sheriff of the county in which the land described in the permit is located. The permit shall be filed prior to commencement of cutting of the trees or shrub or fern or herb or bulb or cactus or flower or huckleberry or redwood green or portions of any tree or shrub authorized by the permit. The permit required by this section need not be notarized or filed with the office of the sheriff of the county where trees are to be removed when five or less trees or five or less pounds of shrubs or boughs are to be cut or removed.

Any county or state firewarden, or personnel of the Department of Forestry as designated by the Director of Forestry, and personnel of the United States Forest Service as designated by the Regional Forester, Region 5, of the United States Forest Service, or any peace officer of the State of California, may enforce the provisions hereof and may confiscate any and all such shrubs, trees, ferns or herbs or bulbs or cacti or flowers, or huckleberry or redwood greens or leaf mold, or parts thereof unlawfully cut or removed or knowingly sold, offered, or exposed or transported for sale as provided in this section.

The provisions of this section do not apply to any tree or shrub, or fern or herb or bulb or cactus or flower, or greens declared by law to be a public nuisance.

The provisions of this section do not apply to the necessary cutting or trimming of any trees, shrubs, or ferns or herbs or bulbs or cacti or flowers, or greens if done for the purpose of protecting or maintaining an electric powerline, telephone line, or other property of a public utility.

The provisions of this section do not apply to persons engaged in logging operations, or in suppressing fires.

SEC. 281. Section 384f of the Penal Code is amended to read:

384f. Any person violating any of the provisions of Sections 384b through 384f shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail not exceeding six months or by both such fine and imprisonment.

SEC. 282. Section 396 of the Penal Code is amended to read:

396. Whoever knowingly uses, transfers, acquires, or possesses food stamps or authorizations to participate in the federal Food Stamp Program in any manner not authorized by Chapter 10 (commencing with Section 18900), Part 6, Division 9 of the Welfare and Institutions Code or by the Food Stamp Act of 1964 (Public Law

88-525 and all amendments made thereto) is guilty of a misdemeanor if the face value of the food stamps or the authorizations to participate is four hundred dollars ($400) or less; or is guilty of a felony if the face value of the food stamps or the authorizations to participate exceeds four hundred dollars ($400), or if the cumulative face value of the food stamps used, transferred, acquired, or possessed in such manner over any period no longer than two years exceeds four hundred dollars ($400).

Whoever knowingly uses, transfers, acquires, or possesses blank authorizations to participate in the federal Food Stamp Program in any manner not authorized by Chapter 10 with the intent to defraud is guilty of a felony.

Whoever counterfeits or alters or knowingly uses, transfers, acquires, or possesses counterfeited or altered authorizations to participate in the federal Food Stamp Program or food stamps in any manner not authorized by the Food Stamp Act of 1964 (Public Law 88-525 and all amendments made thereto) or the federal regulations pursuant to the act is guilty of forgery.

Whoever fraudulently appropriates food stamps or authorizations to participate with which he has been entrusted pursuant to his duties as a public employee is guilty of embezzlement of public funds.

SEC. 283. Section 415 of the Penal Code is amended to read:

415. Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars ($400), or both such imprisonment and fine:

(1) Any person who unlawfully fights in a public place or challenges another person in a public place to fight.

(2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

(3) Any person who uses offensive words in a public place which are inherently likely to provoke an immediate violent reaction.

SEC. 284. Section 415.5 of the Penal Code is amended to read:

415.5. (a) Any person who (1) unlawfully fights within any building or upon the grounds of any school, community college, state college, or state university or challenges another person within any such building or upon such grounds to fight, or (2) maliciously and willfully disturbs another person within any such building or upon such grounds by loud and unreasonable noise, or (3) uses offensive words within any such building or upon such grounds which are inherently likely to provoke an immediate violent reaction is guilty of a misdemeanor and shall be punished as follows:

(i) Upon a first conviction by a fine not exceeding four hundred dollars ($400) or by imprisonment in the county jail for a period of not more than 90 days, or by both such fine and imprisonment.

(ii) If the defendant has been previously convicted once of a violation of this section or of any offense defined in Chapter 1 (commencing with Section 626) of Title 15 of Part 1, by

imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both such imprisonment and a fine of not exceeding one thousand dollars ($1,000), and he shall not be released on probation, parole, or any other basis until he has served not less than 10 days.

(iii) If the defendant has been previously convicted two or more times of a violation of this section or of any offense defined in Chapter 1 (commencing with Section 626) of Title 15 of Part 1, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both such imprisonment and a fine of not exceeding one thousand dollars ($1,000), and he shall not be released on probation, parole, or any other basis until he has served not less than 90 days.

(b) For the purpose of determining the penalty to be imposed pursuant to this section, the court may consider a written report from the Department of Justice containing information from its records showing prior convictions; and the communication is prima facie evidence of such convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

(c) As used in this section "state university," "state college," "community college," and "school" have the same meaning as these terms are given in Section 626.

(d) This section shall not apply to any person who is a registered student of the school.

SEC. 285. Section 474 of the Penal Code is amended to read:

474. Every person who knowingly and willfully sends by telegraph or telephone to any person a false or forged message, purporting to be from a telegraph or telephone office, or from any other person, or who willfully delivers or causes to be delivered to any person any such message falsely purporting to have been received by telegraph or telephone, or who furnishes, or conspires to furnish, or causes to be furnished to any agent, operator, or employee, to be sent by telegraph or telephone, or to be delivered, any such message, knowing the same to be false or forged, with the intent to deceive, injure, or defraud another, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 286. Section 484b of the Penal Code is amended to read:

484b. Any person who receives money for the purpose of obtaining or paying for services, labor, materials or equipment and willfully fails to apply such money for such purpose by either willfully failing to complete the improvements for which funds were provided or willfully failing to pay for services, labor, materials or equipment provided incident to such construction, and wrongfully diverts the funds to a use other than that for which the funds were received, shall be guilty of a public offense and shall be punishable by a fine not exceeding ten thousand dollars ($10,000), or by

imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and such imprisonment if the amount diverted is in excess of one thousand dollars ($1,000). If the amount diverted is less than one thousand dollars ($1,000), the person shall be guilty of a misdemeanor.

SEC. 287. Section 484g of the Penal Code is amended to read:

484g. Every person, who with intent to defraud, (a) uses for the purpose of obtaining money, goods, services or anything else of value a credit card obtained or retained in violation of Section 484e or a credit card which he knows is forged, expired or revoked, or (b) obtains money, goods, services or anything else of value by representing without the consent of the cardholder that he is the holder of a credit card or by representing that he is the holder of a credit card and the card has not in fact been issued, is guilty of theft. If the value of all money, goods, services and other things of value obtained in violation of this section exceeds four hundred dollars ($400) in any consecutive six-month period, then the same shall constitute grand theft.

SEC. 288. Section 484h of the Penal Code is amended to read:

484h. Every retailer who, with intent to defraud:

(a) Furnishes money, goods, services or anything else of value upon presentation of a credit card obtained or retained in violation of Section 484e hereof or a credit card which he knows is forged, expired or revoked, and who receives any payment therefor, is guilty of theft. If the payment received by the retailer for all money, goods, services and other things of value furnished in violation of this section exceeds four hundred dollars ($400) in any consecutive six-month period, then the same shall constitute grand theft.

(b) Fails to furnish money, goods, services or anything else of value which he represents in writing to the issuer that he has furnished, and who receives any payment therefor, is guilty of theft. If the difference between the value of all money, goods, services and anything else of value actually furnished and the payment or payments received by the retailer therefor upon such representation exceeds four hundred dollars ($400) in any consecutive six-month period, then the same shall constitute grand theft.

SEC. 289. Section 499b of the Penal Code is amended to read:

499b. Any person who shall, without the permission of the owner thereof, take any automobile, bicycle, motorcycle, or other vehicle or motorboat or vessel, for the purpose of temporarily using or operating the same, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not exceeding four hundred dollars ($400), or by imprisonment not exceeding three months, or by both such fine and imprisonment.

SEC. 290. Section 499c of the Penal Code is amended to read:

499c. (a) As used in this section:

(1) "Article" means any object, material, device or substance or copy thereof, including any writing, record, recording, drawing, sample, specimen, prototype, model, photograph, micro-organism,

blueprint or map.

(2) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(3) "Trade secret" means the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula or improvement which is secret and is not generally available to the public, and which gives one who uses it an advantage over competitors who do not know of or use the trade secret; and a trade secret shall be presumed to be secret when the owner thereof takes measures to prevent it from becoming available to persons other than those selected by the owner to have access thereto for limited purposes.

(4) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article.

(5) "Benefit" means gain or advantage, or anything regarded by the beneficiary as gain or advantage, including benefit to any other person or entity in whose welfare he is interested.

(b) Every person is guilty of theft who, with intent to deprive or withhold from the owner thereof the control of a trade secret, or with an intent to appropriate a trade secret to his own use or to the use of another, does any of the following:

(1) Steals, takes, or carries away any article representing a trade secret.

(2) Fraudulently appropriates any article representing a trade secret entrusted to him.

(3) Having unlawfully obtained access to the article, without authority makes or causes to be made a copy of any article representing a trade secret.

(4) Having obtained access to the article through a relationship of trust and confidence, without authority and in breach of the obligations created by such relationship makes or causes to be made, directly from and in the presence of the article, a copy of any article representing a trade secret.

(c) Every person who promises or offers or gives, or conspires to promise or offer to give, to any present or former agent, employee or servant of another a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same and every person who, being a present or former agent, employee, or servant, solicits, accepts, receives or takes a benefit as an inducement, bribe or reward for conveying, delivering or otherwise making available an article representing a trade secret owned by his present or former principal, employer or master, to any person not authorized by such owner to receive or acquire the same, is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and such

imprisonment.

(d) In a prosecution for a violation of this section it shall be no defense that the person so charged, returned or intended to return the article.

SEC. 291. Section 499d of the Penal Code is amended to read:

499d. Any person who operates or takes an aircraft not his own, without the consent of the owner thereof, and with intent to either permanently or temporarily deprive the owner thereof of his title to or possession of such vehicle, whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in any operation or unauthorized taking or stealing is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not more than one year or by a fine of not more than ten thousand dollars ($10,000) or by both such fine and imprisonment.

SEC. 292. Section 502 of the Penal Code is amended to read:

502. (a) For purposes of this section:

(1) "Access" means to instruct, communicate with, store data in, or retrieve data from a computer system or computer network.

(2) "Computer system" means a machine or collection of machines, excluding pocket calculators which are not programmable and capable of being used in conjunction with external files, one or more of which contain computer programs and data, that performs functions, including, but not limited to, logic, arithmetic, data storage and retrieval, communication, and control.

(3) "Computer network" means an interconnection of two or more computer systems.

(4) "Computer program" means an ordered set of instructions or statements, and related data that, when automatically executed in actual or modified form in a computer system, causes it to perform specified functions.

(5) "Data" means a representation of information, knowledge, facts, concepts, or instructions, which are being prepared or have been prepared, in a formalized manner, and are intended for use in a computer system or computer network.

(6) "Financial instrument" includes, but is not limited to, any check, draft, warrant, money order, note, certificate of deposit, letter of credit, bill of exchange, credit or debit card, transaction authorization mechanism, marketable security, or any computer system representation thereof.

(7) "Property" includes, but is not limited to, financial instruments, data, computer programs, documents associated with computer systems and computer programs, or copies thereof, whether tangible or intangible, including both human and computer system readable data, and data while in transit.

(8) "Services" includes, but is not limited to, the use of the computer system, computer network, computer programs, or data prepared for computer use, or data contained within a computer system, or data contained within a computer network.

(b) Any person who intentionally accesses or causes to be accessed any computer system or computer network for the purpose of (1) devising or executing any scheme or artifice to defraud or extort or (2) obtaining money, property, or services with false or fraudulent intent, representations, or promises shall be guilty of a public offense.

(c) Any person who maliciously accesses or causes to be accessed any computer system or computer network for the purpose of obtaining unauthorized information concerning the credit information of another person or who introduces or causes to be introduced false information into that system or network for the purpose of wrongfully damaging or wrongfully enhancing the credit rating of any person shall be guilty of a public offense.

(d) Any person who maliciously accesses, alters, deletes, damages, or destroys any computer system, computer network, computer program, or data shall be guilty of a public offense.

(e) Any person who violates the provisions of subdivision (b), (c), or (d) is guilty of a felony and is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison for 16 months, or two or three years, or by both such fine and imprisonment, or by a fine not exceeding five thousand dollars ($5,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(f) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction.

SEC. 293. Section 502.7 of the Penal Code is amended to read:

502.7. (a) A person who, knowingly, willfully and with intent to defraud a person providing telephone or telegraph service, avoids or attempts to avoid, or aids, abets or causes another to avoid the lawful charge, in whole or in part, for telephone or telegraph service by any of the following means is guilty of a misdemeanor:

(1) By charging such service to an existing telephone number or credit card number without the authority of the subscriber thereto or the lawful holder thereof; or

(2) By charging such service to a nonexistent telephone number or credit card number, or to a number associated with telephone service which is suspended or terminated, or to a revoked or canceled (as distinguished from expired) credit card number, notice of such suspension, termination, revocation or cancellation of such telephone service or credit card having been given to the subscriber thereto or the holder thereof; or

(3) By use of a code, prearranged scheme, or other similar stratagem or device whereby said person, in effect, sends or receives information; or

(4) By rearranging, tampering with, or making connection with telephone or telegraph facilities or equipment, whether physically, electrically, acoustically, inductively or otherwise, or by using telephone or telegraph service with knowledge or reason to believe

that such rearrangement, tampering or connection existed at the time of such use; or

(5) By using any other deception, false pretense, trick, scheme, device or means.

(b) A person who (1) makes, possesses, sells, gives or otherwise transfers to another, or offers or advertises an instrument, apparatus, or device with intent to use it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or (2) sells, gives or otherwise transfers to another or offers, or advertises plans or instructions for making or assemblying an instrument, apparatus or device described in paragraph (1) of this subdivision with knowledge or reason to believe that they may be used to make or assemble such instrument, apparatus or device is guilty of a misdemeanor.

(c) Any person who publishes the number or code of an existing, canceled, revoked, expired or nonexistent credit card, or the numbering or coding which is employed in the issuance of credit cards, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful telephone or telegraph toll charge is guilty of a misdemeanor. The provisions of subdivision (f) shall not apply to this subdivision. As used in this section, "publishes" means the communication of information to any one or more persons, either orally, in person or by telephone, radio or television, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book.

(d) Subdivision (a) of this section shall apply when the telephone or telegraph communication involved either originates or terminates, or both originates and terminates, in this state, or when the charges for service would have been billable, in normal course, by a person providing telephone or telegraph service in this state, but for the fact that the charge for service was avoided, or attempted to be avoided by one or more of the means set forth in subdivision (a) of this section.

(e) Jurisdiction of an offense under this section is in the jurisdictional territory where the telephone call or telegram involved in the offense originates or where it terminates, or the jurisdictional territory to which the bill for the service is sent or would have been sent but for the fact that the service was obtained or attempted to be obtained by one or more of the means set forth in subdivision (a) of this section.

(f) If the total value of all telephone or telegraph services obtained in violation of this section aggregates over four hundred dollars ($400) within any period of twelve (12) consecutive months during the three years immediately prior to the time the indictment is found or the case is certified to the superior court, or if the defendant has previously been convicted of an offense under this section or of an offense under the laws of another state or of the

United States which would have been an offense under this section if committed in this state, a person guilty of such offense is punishable by imprisonment in the state prison not exceeding one year and one day, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

(g) An instrument, apparatus, device, plans, instructions or written publication described in subdivision (b) or (c) of this section may be seized under warrant or incident to a lawful arrest, and, upon the conviction of a person for a violation of subdivisions (a), (b), or (c) of this section, such instrument, apparatus, device, plans, instructions or written publication may be destroyed as contraband by the sheriff of the county in which such person was convicted or turned over to the person providing telephone or telegraph service in the territory in which the same was seized.

SEC. 294. Section 506b of the Penal Code is amended to read:

506b. Any person who violates Section 2985.3 or 2985.4 of the Civil Code, relating to real property sales contracts, is guilty of a public offense punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in the county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 295. Section 524 of the Penal Code is amended to read:

524. Every person who attempts, by means of any threat, such as is specified in Section 519 of this code, to extort money or other property from another is punishable by imprisonment in the county jail not longer than one year or in the state prison or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 296. Section 529 of the Penal Code is amended to read:

529. Every person who falsely personates another in either his private or official capacity, and in such assumed character either:

1. Becomes bail or surety for any party in any proceeding whatever, before any court or officer authorized to take such bail or surety;

2. Verifies, publishes, acknowledges, or proves, in the name of another person, any written instrument, with intent that the same may be recorded, delivered, or used as true; or,

3. Does any other act whereby, if done by the person falsely personated, he might, in any event, become liable to any suit or prosecution, or to pay any sum of money, or to incur any charge, forfeiture, or penalty, or whereby any benefit might accrue to the party personating, or to any other person;

Is punishable by a fine not exceeding ten thousand dollars ($10,000), or by imprisonment in the state prison, or in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 297. Section 532a of the Penal Code is amended to read:

532a. (1) Any person who shall knowingly make or cause to be made, either directly or indirectly or through any agency whatsoever, any false statement in writing, with intent that it shall

be relied upon, respecting the financial condition, or means or ability to pay, of himself, or any other person, firm or corporation, in whom he is interested, or for whom he is acting, for the purpose of procuring in any form whatsoever, either the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of a credit, the execution of a contract of guaranty or suretyship, the discount of an account receivable, or the making, acceptance, discount, sale or indorsement of a bill of exchange, or promissory note, for the benefit of either himself or of such person, firm or corporation shall be guilty of a public offense.

(2) Any person who knowing that a false statement in writing has been made, respecting the financial condition or means or ability to pay, of himself, or a person, firm or corporation in which he is interested, or for whom he is acting, procures, upon the faith thereof, for the benefit either of himself, or of such person, firm or corporation, either or any of the things of benefit mentioned in the first subdivision of this section shall be guilty of a public offense.

(3) Any person who knowing that a statement in writing has been made, respecting the financial condition or means or ability to pay of himself or a person, firm or corporation, in which he is interested, or for whom he is acting, represents on a later day in writing that the statement theretofore made, if then again made on said day, would be then true, when in fact, said statement if then made would be false, and procures upon the faith thereof, for the benefit either of himself or of such person, firm or corporation either or any of the things of benefit mentioned in the first subdivision of this section shall be guilty of a public offense.

(4) Any person committing a public offense under subdivision (1), (2), or (3) shall be guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. Any person who violates the provisions of subdivision (1), (2), or (3), by using a fictitious name, social security number, business name, or business address, or by falsely representing himself or herself to be another person or another business, is guilty of a felony and is punishable by a fine not exceeding five thousand dollars ($5,000) or by imprisonment in the state prison, or by both such fine and imprisonment, or by a fine not exceeding two thousand five hundred dollars ($2,500) or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

(5) This section shall not be construed to preclude the applicability of any other provision of the criminal law of this state which applies or may apply to any transaction.

SEC. 298. Section 535 of the Penal Code is amended to read:

535. Every person who obtains any money or property from another, or obtains the signature of another to any written instrument, the false making of which would be forgery, by means of any false or fraudulent sale of property or pretended property, by

auction, or by any of the practices known as mock auctions, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding two thousand dollars ($2,000), or by both such fine and imprisonment; and, in addition thereto, forfeits any license he may hold as auctioneer, and is forever disqualified from receiving a license to act as auctioneer within this state.

SEC. 299. Section 536 of the Penal Code is amended to read:

536. Every commission merchant, broker, agent, factor, or consignee, who shall willfully and corruptly make, or cause to be made, to the principal or consignor of such commission merchant, agent, broker, factor, or consignee, a false statement as to the price obtained for any property consigned or entrusted for sale, or as to the quality or quantity of any property so consigned or entrusted, or as to any expenditures made in connection therewith, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding one thousand dollars ($1,000) and not less than two hundred dollars ($200), or by imprisonment in the county jail not exceeding six months and not less than 10 days, or by both such fine and imprisonment.

SEC. 300. Section 540 of the Penal Code is amended to read:

540. Every person, who steals or, without authority to do so, alters, forges, or counterfeits any coupon, stamp, token, certificate, or other ration evidence or document issued by the United States government or any agency thereof in furtherance of its rationing program, or forges, or alters, without authority, any ration check shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 301. Section 541 of the Penal Code is amended to read:

541. Every person who sells, gives, or otherwise transfers to another any altered, forged, or counterfeited coupon, stamp, token, certificate, ration check, or other ration evidence or document knowing the same to be altered, forged, or counterfeited shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC 302. Section 542 of the Penal Code is amended to read:

542. Any person who buys, or otherwise knowingly and unlawfully acquires any altered, forged, or counterfeited coupon, stamp, token, certificate, ration check, or other ration evidence or document knowing the same to be altered, forged, or counterfeited shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 303. Section 543 of the Penal Code is amended to read:

543. Any person who knowingly either buys, or sells, or otherwise unlawfully acquires or transfers for a valuable consideration any coupon, stamp, token, certificate, ration check or other ration

evidence or document issued by the United States government or any agency thereof or any altered, forged, or counterfeited coupon, stamp, token, certificate, ration check, or other ration evidence or document, shall be punishable by imprisonment in the state prison, or in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 304. Section 558.1 of the Penal Code is amended to read:

558.1. Every person who violates any of the provisions of Section 558 is guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than six hundred dollars ($600) or by imprisonment for not more than 30 days, or by both such fine and imprisonment.

SEC. 305. Section 560 of the Penal Code is amended to read:

560. Any bailee, as defined in Section 7102 of the Uniform Commercial Code, who issues or aids in issuing a document of title, or any person who secures the issue by a bailee of a document of title, or any person who negotiates or transfers for value a document of title knowing that the goods for which such document is issued have not been actually received by such bailee or are not under his control at the time of issuing such receipt shall be guilty of a crime and upon conviction shall be punished for each offense by imprisonment in the state prison or by a fine not exceeding ten thousand dollars ($10,000) or by both.

SEC. 306. Section 560.4 of the Penal Code is amended read:

560.4. Any bailee, as defined in Section 7102 of the Uniform Commercial Code, who issues or aids in issuing a duplicate or additional negotiable document of title for goods knowing that a former negotiable document of title for the same goods or any part of them is outstanding and uncanceled without plainly placing upon the face thereof the word "duplicate," except in cases of bills in a set and documents issued as substitutes for lost, stolen or destroyed documents, shall be guilty of a crime and upon conviction shall be punished for each offense by imprisonment in the state prison or by a fine not exceeding ten thousand dollars ($10,000) or by both.

SEC. 307. Section 593 of the Penal Code is amended to read:

593. Every person who unlawfully and maliciously takes down, removes, injures, interferes with, or obstructs any line erected or maintained by proper authority for the purpose of transmitting electricity for light, heat, or power, or any part thereof, or any insulator or crossarm, appurtenance or apparatus connected therewith, or severs or in any way interferes with any wire, cable, or current thereof, is punishable by imprisonment in the state prison, or by fine not exceeding one thousand dollars ($1,000), or imprisonment in the county jail not exceeding one year.

SEC. 308. Section 597k of the Penal Code is amended to read:

597k. Anyone who, having care, custody or control of any horse or other animal, uses what is known as the bristle bur, tack bur, or other like device, by whatsoever name known or designated, on such

horse or other animal for any purpose whatsoever, is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), or by imprisonment in the county jail for not less than 10 days nor more than 175 days, or by both such fine and imprisonment.

SEC. 309. Section 597*l* of the Penal Code is amended to read:

597*l*. It shall be unlawful for any person who operates a pet shop to fail to do all of the following:

(1) Maintain the facilities used for the keeping of pet animals in a sanitary condition.

(2) Provide proper heating and ventilation for the facilities used for the keeping of pet animals.

(3) Provide adequate nutrition for, and humane care and treatment of, all pet animals under his care and control.

(4) Take reasonable care to release for sale, trade, or adoption only those pet animals which are free of disease or injuries.

(5) Provide adequate space appropriate to the size, weight and specie of pet animals.

(b) As used in this section:

(1) "Pet animals" means dogs, cats, monkeys, and other primates, rabbits, birds, guinea pigs, hamsters, mice, snakes, iguanas, turtles, and any other species of animal sold or retained for the purpose of being kept as a household pet.

(2) "Pet shop" means every place or premises where pet animals are kept for the purpose of either wholesale or retail sale. "Pet shop" does not include any place or premises where pet animals are occasionally sold.

(c) Any person who violates any provision of this section is guilty of a misdemeanor and is punishable by a fine of not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for not more than 90 days, or by both such fine and imprisonment.

SEC. 310. Section 606 of the Penal Code is amended to read:

606. Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any place of confinement, is punishable by fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the state prison, except that where the damages or injury to any city, city and county or county place of confinement is determined to be four hundred dollars ($400) or less, he is guilty of a misdemeanor.

SEC. 311. Section 620 of the Penal Code is amended to read:

620. Every person who willfully alters the purport, effect, or meaning of a telegraphic or telephonic message to the injury of another, is punishable by imprisonment in the state prison, or in the county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 312. Section 623 of the Penal Code is amended to read:

623. (a) Except as otherwise provided in Section 599c, any person who, without the prior written permission of the owner of a cave, intentionally and knowingly does any of the following acts is

guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding one year, or by a fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment:

(1) Breaks, breaks off, cracks, carves upon, paints, writes or otherwise marks upon or in any manner destroys, mutilates, injures, defaces, mars, or harms any natural material found in any cave.

(2) Disturbs or alters any archaeological evidence of prior occupation in any cave.

(3) Kills, harms, or removes any animal or plant life found in any cave.

(4) Burns any material which produces any smoke or gas which is harmful to any plant or animal found in any cave.

(5) Removes any material found in any cave.

(6) Breaks forces, tampers with, removes or otherwise disturbs any lock, gate, door, or any other structure or obstruction designed to prevent entrance to any cave, whether or not entrance is gained.

(b) For purposes of this section:

(1) "Cave" means any natural geologically formed void or cavity beneath the surface of the earth, not including any mine, tunnel, aqueduct, or other manmade excavation, which is large enough to permit a person to enter.

(2) "Owner" means the person or private or public agency which has the right of possession to the cave.

(3) "Natural material" means any stalactite, stalagmite, helictite, anthodite, gypsum flower or needle, flowstone, drapery, column, tufa dam, clay or mud formation or concretion, crystalline mineral formation, and any wall, ceiling, or mineral protuberance therefrom, whether attached or broken, found in any cave.

(4) "Material" means all or any part of any archaeological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation found in any cave.

(c) The entering or remaining in a cave by itself shall not constitute a violation of this section.

SEC. 313. Section 625b of the Penal Code is amended to read:

625b (a) Every person who willfully injures or tampers with any aircraft or the contents or parts thereof, or removes any part of or from an aircraft without the consent of the owner, and every person who, with intent to commit any malicious mischief, injury or other crime, climbs into or upon an aircraft or attempts to manipulate any of the controls, starting mechanism, brakes or other mechanism or device of an aircraft while it is at rest and unattended or who sets in motion any aircraft while it is at rest and unattended, is guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than six months or by a fine of not more than one thousand dollars ($1,000), or by both such fine and imprisonment

(b) Every person who willfully and maliciously damages, injures,

or destroys any aircraft, or the contents or any part thereof, in such a manner as to render the aircraft unsafe for those flight operations for which it is designed and equipped is punishable by imprisonment in the state prison, or by imprisonment in a county jail not exceeding one year, or by a fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 314. Section 646 of the Penal Code is amended to read:

646. It is unlawful for any person with the intent, or for the purpose of instituting a suit thereon outside of this state, to seek or solicit the business of collecting any claim for damages for personal injury sustained within this state, or for death resulting therefrom, with the intention of instituting suit thereon outside of this state, in cases where such right of action rests in a resident of this state, or his legal representative, and is against a person, copartnership, or corporation subject to personal service within this state.

Any person violating any of the provisions of this section is guilty of a misdemeanor, and is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), by imprisonment in the county jail not less than 30 days nor more than six months, or by both fine and imprisonment at the discretion of the court but within said limits

SEC. 315. 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 one thousand dollars ($1,000) 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. 316. Section 647b of the Penal Code is amended to read:

647b. Every person who loiters about any school in which adults are in attendance at courses established pursuant to Chapter 5.5 (commencing with Section 5701) of Division 6 of the Education Code, and who annoys or molests any person in attendance therein shall be punished by a fine of not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

SEC. 317. 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 ten thousand dollars ($10,000), 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. 318. Section 653g of the Penal Code is amended to read:

653g. Every person who loiters about any school or public place at or near which children attend or normally congregate and who remains at any school or public place at or near which children attend or normally congregate, or who reenters or comes upon such school or place within 72 hours, after being asked to leave by the chief administrative official of that school or, in the absence of the chief administrative official, the person acting as the chief administrative official, or by a member of the security patrol of the school district who has been given authorization, in writing, by the chief administrative official of that school to act as his agent in performing this duty, or a city police officer, or sheriff or deputy sheriff, or California Highway Patrol officer, is a vagrant, and is punishable by a fine of not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

As used in this section, "loiter" means to delay, to linger, or to idle about any such school or public place without lawful business for being present.

SEC. 319. Section 654.3 of the Penal Code is amended to read:

654.3. Violation of Section 654.1 shall be a misdemeanor, and upon first conviction the punishment shall be a fine of not over five hundred dollars ($500), or imprisonment in jail for not over 90 days, or both such fine and imprisonment. Upon second conviction the punishment shall be imprisonment in jail for not less than 30 days and not more than 180 days. Upon a third or subsequent conviction the punishment shall be confinement in jail for not less than 90 days and not more than one year, and a person suffering three or more convictions shall not be eligible to probation, the provisions of any law to the contrary notwithstanding.

SEC. 320. Section 672 of the Penal Code is amended to read:

672. Upon a conviction for any crime punishable by imprisonment in any jail or prison, in relation to which no fine is herein prescribed, the court may impose a fine on the offender not exceeding one thousand dollars ($1,000) in cases of misdemeanors or ten thousand dollars ($10,000) in cases of felonies, in addition to the imprisonment prescribed.

SEC. 320.1. Section 1202.4 is added to the Penal Code, to read:

1202.4. (a) In any case in which a defendant is convicted of a felony, the court shall order the defendant to pay a restitution fine as provided in subdivision (a) of Section 13967 of the Government Code. Such restitution fine shall be in addition to any other penalty or fine imposed and shall be ordered regardless of the defendant's present ability to pay. However, if the court finds that there are compelling and extraordinary reasons, the court may waive imposition of that portion of the restitution fine which exceeds the prescribed minimum amount. When such a waiver is granted, the court shall state on the record all reasons supporting the waiver.

(b) Any case in which the defendant is ordered to pay restitution to a victim as a condition of probation, the order to pay the restitution fine may be stayed pending the successful completion of probation, and thereafter the stay shall become permanent.

(c) Upon the revocation of probation and the imposition of sentence, a court shall, in any case, impose a restitution fine as provided in subdivision (a). Any payments of restitution made pursuant to subdivision (b) shall be offset against the fine imposed pursuant to this subdivision.

SEC. 320.2. Section 1205.5 is added to the Penal Code, to read

1205.5. The provisions of Section 1205 shall not apply to restitution fines ordered in felony cases.

SEC. 321. Section 1320 of the Penal Code is amended to read:

1320. (a) Every person who is charged with the commission of a misdemeanor who is released from custody pursuant to Section 1269d on an appearance bond or on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a misdemeanor. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court.

(b) Every person who is charged with the commission of a felony who is released from custody on his or her own recognizance and who in order to evade the process of the court willfully fails to appear as required, is guilty of a felony, and upon conviction shall be punished by a fine not exceeding ten thousand dollars ($10,000) or by imprisonment in the state prison, or in the county jail for not more than one year, or by both such fine and imprisonment. It shall be presumed that a defendant who willfully fails to appear within 14 days of the date assigned for his or her appearance intended to evade the process of the court.

SEC 322. Section 1464 of the Penal Code, as amended by Section

2 of Chapter 1437 of the Statutes of 1982, is amended to read:

1464. (a) Subject to the provisions of Section 1206.8, there shall be levied an assessment in an amount equal to five dollars ($5) for every ten dollars ($10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to subparagraph (iii) of paragraph (3) of subdivision (a) of Section 258 of the Welfare and Institutions Code. Any bail schedule adopted pursuant to Section 1269b may include the necessary amount to pay the assessments established by this section and Section 1206.8 for all matters where a personal appearance is not mandatory and the bail is posted primarily to guarantee payment of the fine.

(b) Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

(c) When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

(d) In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family

(e) After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. The portion thereof attributable to Section 1206.8 shall be deposited in the appropriate county fund and the balance shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

(f) The moneys so deposited shall be distributed as follows:

(1) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.38 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(2) Once a month there shall be transferred into the Restitution Fund an amount equal to 22.12 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature in accordance with the provisions of subdivision (b) of Section 13967 of the Government Code.

(3) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 27.75 percent of the funds deposited in the Assessment Fund during the preceding month.

(4) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 29.73 percent of the funds deposited in the Assessment Fund during the preceding month.

(5) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 9.12 percent of the funds deposited in the Assessment Fund during the preceding month. Money in the Corrections Training Fund is not continuously appropriated and shall be appropriated in the Budget Act.

(6) Once a month there shall be transferred into the Local Public Prosecutors and Public Defenders Training Fund established pursuant to Section 11503 an amount equal to 0.90 percent of the funds deposited in the Assessment Fund during the preceding month. The amount so transferred shall not exceed the sum of five hundred thousand dollars ($500,000) in any calendar year. The remainder in excess of five hundred thousand dollars ($500,000) shall be transferred to the Restitution Fund.

(7) Once a month there shall be transferred into the Victim-Witness Assistance Fund an amount equal to 10.00 percent of the funds deposited in the Assessment Fund during the preceding month

(g) This section shall become operative on July 1, 1983, shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 322.5. Section 1505 of the Penal Code is amended to read:

1505. If the officer or person to whom a writ of habeas corpus is directed, refuses obedience to the command thereof, he shall forfeit and pay to the person aggrieved a sum not exceeding ten thousand dollars ($10,000), to be recovered by action in any court of competent jurisdiction.

SEC. 323. Section 2790 of the Penal Code is amended to read:

2790. Any person, who, without authority, interferes with or in any way interrupts the work of any convict used pursuant to this article and any person not authorized by law, who gives or attempts to give to any state prison convict so employed any opium, cocaine or other narcotics, or any intoxicating liquors of any kind whatever, or firearms, weapons or explosives of any kind is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison and shall be disqualified from holding any state office or

position in the employ of this state. Any person who interferes with the discipline or good conduct of any convict used pursuant to this article, while such convict is in such camps is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for a term not more than six months, or by a fine of not more than four hundred dollars ($400), or by both such fine and imprisonment. Any peace officer or any officer or guard of any state prison or any superintendent of such work, having in charge the convicts used in such camps, may arrest without a warrant any person violating any provisions of this article.

SEC. 324. Section 4574 of the Penal Code is amended to read:

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

(b) Except as provided in subdivision (a), any person who knowingly brings or sends into such places any tear gas or tear gas weapons which results in the release of such tear gas or use of such weapon is guilty of a felony and punishable by imprisonment in the state prison for two, three, or four years.

(c) Except as provided in subdivision (a), any person who knowingly brings or sends into such places any tear gas or tear gas weapons is guilty of a misdemeanor and punishable by imprisonment in the county jail not exceeding six months, or by fine not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 325. Section 4600 of the Penal Code is amended to read:

4600. Every person who willfully and intentionally breaks down, pulls down, or otherwise destroys or injures any jail, prison, or any public property in any jail or prison, is punishable by a fine not exceeding ten thousand dollars ($10,000), and by imprisonment in the state prison, except that where the damage or injury to any city, city and county or county jail property or prison property is determined to be four hundred dollars ($400) or less, such person is guilty of a misdemeanor.

SEC. 326. Section 11503 is added to the Penal Code, to read:

11503. There is hereby created in the State Treasury a Local

Public Prosecutors and Public Defenders Training Fund, which, notwithstanding Section 13340 of the Government Code, is hereby appropriated without regard to fiscal years for the support of the Prosecutors and Public Defenders Education and Training Program, established pursuant to this title. However, the funds appropriated pursuant to this section for state administrative costs shall be subject to annual review through the State Budget process.

SEC. 326.5. Section 12021 of the Penal Code is amended to read:

12021. (a) Any person who has been convicted of a felony under the laws of the United States, of the State of California, or any other state, government, or country, or of an offense enumerated in Section 12001.6, or who is addicted to the use of any narcotic drug, who owns or has in his possession or under his custody or control any pistol, revolver, or other firearm capable of being concealed upon the person is guilty of a public offense, and shall be punishable by imprisonment in the state prison. or in a county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000), or by both.

(b) Notwithstanding the provisions of subdivision (a), any person who has been convicted of a felony or of an offense enumerated in Section 12001.6, when such conviction results from certification by the juvenile court for prosecution as an adult in an adult court under the provisions of Section 707 of the Welfare and Institutions Code, who owns or has in his possession or under his custody or control any pistol, revolver, or other firearm capable of being concealed upon the person is guilty of a public offense and shall be punishable by imprisonment in the state prison, or in a county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000), or by both.

(c) Subdivision (a) shall not apply to a person who has been convicted of a felony under the laws of the United States unless:

(1) Conviction of a like offense under California law can only result in imposition of felony punishment; or

(2) The defendant was sentenced to a federal correctional facility for more than 30 days, or received a fine of more than one thousand dollars ($1,000), or received both such punishments.

SEC. 327. Section 12025 of the Penal Code is amended to read:

12025. (a) Except as otherwise provided in this chapter, any person who carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor. Any person convicted under this subdivision who has previously been convicted of any felony, or of any crime made punishable by this chapter, is guilty of a felony, and if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than three months.

(b) Any person who carries concealed upon his or her person any

pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor, except any person, having been convicted of a crime against the person, property or a narcotics or dangerous drug violation, who carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a public offense and is punishable by imprisonment in a state prison, or by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars ($1,000), or by both such fine and imprisonment. Any person convicted under this subdivision who has previously been convicted of any felony or of any crime made punishable by this chapter, is guilty of a felony, and if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than three months.

(c) Firearms carried openly in belt holsters are not concealed within the meaning of this section, nor are knives which are carried openly in sheaths suspended from the waist of the wearer.

(d) Every person convicted under this section who has previously been convicted of a misdemeanor offense enumerated in Section 12001.6 shall be punished by imprisonment in the county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for at least three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivisions (a), (b), and (d) except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivisions (a), (b), and (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivisions (a), (b), and (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

SEC. 328. Section 12220 of the Penal Code is amended to read.

12220. Any person, firm or corporation, who within this state sells, offers for sale, possesses or knowingly transports any firearms of the kind commonly known as a machinegun, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or by a fine not to exceed ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 329. Section 12303 of the Penal Code is amended to read:

12303. Any person, firm, or corporation who, within this state, possesses any destructive device, other than fixed ammunition of a

caliber greater than .60 caliber, except as provided by this chapter, is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the county jail for a term not to exceed one year, or in state prison, or by a fine not to exceed ten thousand dollars ($10,000) or by both such fine and imprisonment.

SEC. 330. Section 12351 of the Penal Code is amended to read:

12351. Every person violating any of the provisions of this chapter is guilty of a misdemeanor and on conviction shall be fined a sum not to exceed one hundred dollars ($100), or in default of the payment of the fine shall be imprisoned in the county jail not to exceed one day for each two dollars ($2) of the fine.

SEC. 331. Section 12520 of the Penal Code is amended to read:

12520. Any person, firm or corporation who within this state possesses any device of the kind commonly known as a silencer for firearms is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or by a fine not to exceed ten thousand dollars ($10,000) or by both.

SEC. 332. Section 12560 of the Penal Code is amended to read:

12560. Every person who has been convicted of a felony under the laws of the United States, of the State of California, or of any other state, government, or country and who used a firearm in the commission of such felony, who owns or has in his possession or under his custody or control any firearm is punishable by imprisonment in the state prison or in a county jail not exceeding one year or by a fine not exceeding one thousand dollars ($1,000), or by both such term of imprisonment and such fine.

SEC. 333. Section 2313 of the Public Resources Code is amended to read:

2313. Within 90 days after the posting of his or her notice of location upon a lode mining claim, placer claim, tunnel right or location, or millsite claim or location, the locator shall record, in the office of the county recorder of the county in which the claim is situated, a true copy of the notice together with a statement by the locator of the markings of the boundaries as required by this chapter and the character of the markings, which statement also shall include the section or sections, township, range, and meridian of the United States survey within which all, or any part, of the claim is located.

Any person who willfully makes a false statement with respect to any mining claim on the posted location notice or on the recorded notice, or accompanying statement, is guilty of a misdemeanor and, upon conviction, shall be punished by a fine not exceeding two hundred dollars ($200) or by imprisonment in the county jail not exceeding six months, or by both that fine and imprisonment.

SEC. 334. Section 2315 of the Public Resources Code is amended to read:

2315. (a) Whenever labor is performed and improvements are made as required by law upon any mining claim, the person in whose behalf such labor was performed or improvements made, or someone in his behalf, shall, within 30 days after the time limited by

law for performing such labor or making such improvements, make and have recorded by the county recorder in books kept for that purpose, in the county in which the mining claim is situated, an affidavit setting forth:

(1) The name of the claim.

(2) A reference by book and page to the public record of the notice of location of the claim and, if amended, of the last recorded amendment thereof.

(3) The section or sections, township, range, and meridian of the United States survey within which all or any part of the claim is located.

(4) A description of the labor and improvements performed or made upon or for the benefit of the claim for which the proof is made, the value of each such item, and the dates on which or the period of time within which the same was performed or made.

(5) The name, current mailing address and current residence address of the person who makes the proof and of the owner of the claim, as known to the affiant.

(6) A statement that the claim is held and claimed by the owner, or the person making the proof if he is entitled to possession thereof, for the valuable mineral contained therein.

(7) The name and address of the person who performed or made the work and improvements described in the affidavit, as known to the affiant.

(8) A statement that all monuments required by law to have been erected upon the claim and all notices required by law to have been posted on the claim or copies thereof were in place at a date within the assessment year for which the affidavit is made and a statement of the date.

(9) A statement that at such date each corner monument bore or contained marking sufficient to appropriately designate the corner of the mining claim to which it pertains and the name of the claim.

(b) The affidavit so recorded as required by subdivision (a) of this section, or a copy thereof duly certified by the county recorder, shall be prima facie evidence of the performance of the labor and the making of the improvements as stated in the affidavit.

(c) The neglect or failure of the owner of any mining claim to record or cause to be recorded within the time allowed by this section an affidavit containing the statements required by subdivision (a) of this section shall create a prima facie presumption of the act and intent of the owner to abandon such claim at the end of the assessment year within which the labor should have been performed or the improvements made under the laws of the United States, and also shall throw the burden of proof upon the owner or owners of such claim to show that such labor has been performed and that such improvements have been made in any contest, suit or proceeding touching the title to the claim, except that in the event the affidavit is executed and recorded by anyone other than an owner within the 30-day period, and the owner apprehends that

there are deficiencies in the recorded affidavit, he may supplement and furnish the same by further affidavit to comply with the section and may record such supplemental affidavit within 30 days following the last day of the 30-day period after the time limited by law for performance of the work or making of improvements, and thereby obtain the prima facie evidence of performance of labor and making of improvements above provided, and avoid the prima facie presumption of abandonment and the burden of proving the performance of labor and making of improvements required by law.

(d) Any person who willfully makes a false statement with respect to any mining claim on the affidavit of labor or improvements required by subdivision (a) or on the supplementary affidavit permitted by subdivision (c) shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine not exceeding two hundred dollars ($200) or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 335. Section 2316.5 of the Public Resources Code is amended to read:

2316.5. Any person who shall take down, remove, alter or destroy any stake, post, monument or notice of location upon any mining claim, and which is required by law to be upon such mining claim, without the consent of the owner or owners thereof, shall be deemed guilty of a misdemeanor, and on conviction, shall be punished by a fine not exceeding two hundred dollars ($200) or by imprisonment in the county jail not exceeding six (6) months, or by both such fine and imprisonment.

SEC. 336. Section 3236 of the Public Resources Code is amended to read:

3236. Any owner or operator, or employee thereof, who refuses to permit the supervisor or the district deputy, or his inspector, to inspect a well, or who willfully hinders or delays the enforcement of the provisions of this chapter, and every person, whether as principal, agent, servant, employee, or otherwise, who violates, fails, neglects, or refuses to comply with any of the provisions of this chapter, or who fails or neglects or refuses to furnish any report or record which may be required pursuant to the provisions of this chapter, or who willfully renders a false or fraudulent report, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100), nor more than one thousand dollars ($1,000), or by imprisonment for not exceeding six months, or by both such fine and imprisonment, for each such offense.

SEC. 337. Section 3754 of the Public Resources Code is amended to read:

3754. Any owner or operator, or employee thereof, who refuses to permit the supervisor or the district deputy, or his inspector, to inspect a well, or who willfully hinders or delays the enforcement of the provisions of this chapter, and every person, whether as principal, agent, servant, employee, or otherwise, who violates, fails,

neglects, or refuses to comply with any of the provisions of this chapter, or who fails or neglects or refuses to furnish any report or record which may be required pursuant to the provisions of this chapter, or who willfully renders a false or fraudulent report, is guilty of a misdemeanor, punishable by a fine of not less than one hundred dollars ($100), nor more than one thousand dollars ($1,000), or by imprisonment for not exceeding six months, or by both such fine and imprisonment, for each such offense.

SEC. 338. Section 4166 of the Public Resources Code is amended to read:

4166. Every person who violates this article is guilty of a misdemeanor, which is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000). If the defendant refuses, on conviction, to pay the fine, he shall be confined in the county jail of the county in which conviction is had for a period not to exceed one day for every five dollars ($5) of the fine imposed, or may be subject to both such fine and imprisonment.

SEC. 339. Section 4299 of the Public Resources Code is amended to read:

4299. Any person who violates Section 4297 or 4298 is guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or by imprisonment in the county jail for not less than 10 days nor more than 90 days or both such fine and imprisonment. All state and county law enforcement officers shall enforce orders of closure.

SEC. 340. Section 4601 of the Public Resources Code is amended to read:

4601. Any person who willfully violates any provision of this chapter or rule or regulation of the board is guilty of a misdemeanor and shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment. The person is guilty of a separate misdemeanor offense under this section for each day in which an order for corrective action issued pursuant to Section 4605 or 4608 is violated.

SEC. 341. Section 4656.3 of the Public Resources Code is amended to read:

4656.3. Any person who violates the rules and regulations pertaining to the state forests established by the board is guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding one thousand dollars ($1,000).

SEC. 342. Section 4726 of the Public Resources Code is amended to read:

4726. Any person who willfully cuts down, strips of its bark, or destroys by fire, any tree "over 16 feet in diameter," in the groves of big trees situated in the Counties of Fresno, Tulare, or Kern, is guilty of a misdemeanor, and is punishable by fine of not less than one hundred dollars ($100) nor more than six hundred dollars ($600), or by imprisonment in the county jail not less than 25 days nor more

than 150 days, or by both such fine and imprisonment.

SEC. 343. Section 4879 of the Public Resources Code is amended to read:

4879. It is unlawful for any person, firm, or corporation, except boom companies which may be required or compelled to catch and hold logs or timber, to take up or have in their possession, or to sell, dispose of, or convert or appropriate to their own use, without the written consent of the owner or his agent, any marked log, timber, pole, pile, tie, shingle bolt, boom stick, or lumber of value, not the property of such person, firm or corporation, found on the bank or banks of, or adrift, or strayed in, any harbor, river, lake, bay, slough, bayou, creek, pond, stream, ditch or other waters situated wholly or partly within the boundaries of this state, if the person or company claiming such mark has had a description and diagram of it recorded in any of the counties of this state through which such property was to be floated for manufacture or sale. Knowledge of the ownership of all such logs, timber, or lumber for the purpose of this chapter shall be conclusively presumed upon proof that the logs, timber or lumber were marked and that the description and diagram had been theretofore recorded. Any person violating the provisions of this section shall be punished by a fine not exceeding six hundred dollars ($600), or by imprisonment for not more than one year.

SEC. 344. 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 one thousand dollars ($1,000), 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 ten dollars ($10) nor more than one thousand dollars ($1,000).

SEC. 345. Section 5008.7 of the Public Resources Code is amended to read:

5008.7. Every person convicted of a violation of any rule or regulation adopted by the department pursuant to this division prohibiting the leaving, depositing, dropping or scattering of bottles, broken glass, ashes, wastepaper, cans, or other rubbish in any unit of the state park system shall be punished by a mandatory fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a second or subsequent conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

SEC. 346. Section 5782.21 of the Public Resources Code is amended to read:

5782.21. The district board may adopt and enforce all rules, regulations, ordinances, and bylaws necessary for the administration, government, and protection of the property, improvements, and facilities under its management or belonging to the district. Violation of any rule, regulation, or ordinance adopted pursuant to this section or Section 5782.22 or 5782.23 is a misdemeanor punishable by a fine not to exceed two hundred dollars ($200) or by imprisonment in the county jail for a period not to exceed one month, or by both such fine and imprisonment, unless the district board determines that a violation of any such rule, regulation, or ordinance is an infraction, punishable by a fine not to exceed one hundred dollars ($100).

SEC. 347. Section 25983 of the Public Resources Code is amended to read:

25983. Every person who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 upon property owned by such person and every person leasing the property of another who maintains any tree or shrub or permits any tree or shrub to be maintained in violation of Section 25982 after reasonable notice in writing from a district attorney or city attorney or prosecuting attorney, to remove or alter the tree or shrub so that there is no longer a violation of Section 25982, has been served upon such person, is guilty of a public nuisance as defined in Sections 370 and 371 of the Penal Code and in Section 3480 of the Civil Code. For the purposes of this chapter, a violation is hereby deemed an infraction. The complainant shall establish to the satisfaction of the prosecutor that the violation has occurred prior to the prosecutor's duty to issue the abatement notice. For the purpose of this section,

"reasonable notice" means 30 days from receipt of such notice. Upon expiration of the 30-day period, the complainant shall file an affidavit with the prosecutor alleging that the nuisance has not been abated if the complainant wishes to proceed with the action. The existence of such violation for each and every day after the service of such notice shall be deemed a separate and distinct offense, and it is hereby made the duty of the district attorney, or the city attorney of any city the charter of which imposes the duty upon the city attorney to prosecute state infractions, to prosecute all persons guilty of violating this section by continuous prosecutions until the violation is corrected. Each and every violation of this section shall be punishable by a fine not to exceed one thousand dollars ($1,000).

SEC. 348. Section 1037 of the Public Utilities Code is amended to read:

1037. Every passenger stage corporation which violates any provision of this article, or aids or abets, or without being present advises or encourages any person or corporation in such violation, is guilty of a misdemeanor and, upon conviction thereof, if a person, shall be punished by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in a county jail for a term not to exceed six months, or by both such fine and imprisonment, or, if a corporation, shall be punished by a fine not to exceed one thousand dollars ($1,000).

SEC. 349. Section 3709 of the Public Utilities Code is amended to read:

3709. Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of highway carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three (3) months, or both.

SEC. 350. Section 3801 of the Public Utilities Code is amended to read:

3801. Every highway permit carrier and every officer, director, agent, or employee of any highway permit carrier who violates or who fails to comply with, or who procures, aids, or abets any violation by any highway permit carrier of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or of any operating permit issued to any highway permit carrier, or who procures, aids, or abets any highway permit carrier in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, requirement, or operating permit, is guilty of a misdemeanor, and is punishable by fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three months, or both.

SEC. 351. Section 3802 of the Public Utilities Code is amended to

read:

3802 Every corporation or person other than a highway carrier, who knowingly and willfully, either individually, or acting as an officer, agent, or employee of a corporation, copartnership, or any other person other than a highway carrier, violates any provision of this chapter or fails to observe, obey, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or who procures, aids, or abets any highway carrier in its violation of this chapter, or in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, or requirement, is guilty of a misdemeanor, and is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three months, or both.

SEC. 352. Section 4878 of the Public Utilities Code is amended to read:

4878. Any person, firm, or corporation, acting as a motor transportation broker without a license is, upon conviction of a first offense thereof, if a person, punishable by a fine of not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for a term not to exceed six months, or both, or if a corporation, punishable by a fine of not to exceed five thousand dollars ($5,000); and for a second and subsequent offense is, upon conviction, if a person, punishable by a fine of not to exceed two thousand dollars ($2,000), or by imprisonment in the county jail or state prison for a term not to exceed one year, or both, or, if a corporation, is punishable by a fine of not to exceed ten thousand dollars ($10,000).

SEC. 353. Section 4879 of the Public Utilities Code is amended to read:

4879. Any person, licensed as a motor transportation broker, who, directly or indirectly, offers, pays or gives to any shipper any money, credit, thing of value, or other consideration as an inducement to secure any transportation of property from such shipper, or who violates any of the provisions of this chapter, is guilty of a misdemeanor, and is, upon conviction, punishable by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in a county jail not to exceed six months, or both; and in addition thereto, the license as motor transportation broker shall be revoked by the commission.

SEC. 354. Section 5228 of the Public Utilities Code is amended to read:

5228. Any employee of the commission who divulges any fact or information which comes to his knowledge during the course of the examination of the accounts, records, and memoranda of household goods carriers, except as he is authorized or directed by the commission or by a court of competent jurisdiction or judge thereof, is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three (3) months, or both.

SEC. 355. Section 5311 of the Public Utilities Code is amended to read:

5311. Every household goods carrier and every officer, director, agent, or employee of any household goods carrier who violates or who fails to comply with, or who procures, aids, or abets any violation by any household goods carrier of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or of any operating permit issued to any household goods carrier, or who procures, aids. or abets any household goods carrier in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, requirement, or operating permit, is guilty of a misdemeanor, and is punishable by fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three months, or both.

SEC. 356. Section 5312 of the Public Utilities Code is amended to read:

5312. Every corporation or person other than a household goods carrier, who knowingly and willfully, either individually, or acting as an officer, agent, or employee of a corporation, copartnership, or any other person other than a household goods carrier, violates any provision of this chapter or fails to observe, obey, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or who procures, aids, or abets any household goods carrier in its violation of this chapter, or in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, or requirement, is guilty of a misdemeanor, and is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three months, or both.

SEC. 357. Section 5411 of the Public Utilities Code is amended to read:

5411. Every charter-party carrier of passengers and every officer, director, agent, or employee of any charter-party carrier of passengers who violates or who fails to comply with, or who procures, aids, or abets any violation by any charter-party carrier of passengers of any provision of this chapter, or who fails to obey, observe, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or of any operating permit or certificate issued to any charter-party carrier of passengers, or who procures, aids, or abets any charter-party carrier of passengers in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, requirement, or operating permit or certificate, is guilty of a misdemeanor and is punishable by fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three months, or both.

SEC. 358. Section 5412 of the Public Utilities Code is amended to read:

5412. Every corporation or person other than a charter-party carrier of passengers, who knowingly and willfully, either individually, or acting as an officer, agent, or employee of a corporation, copartnership, or any other person other than a charter-party carrier of passengers, violates any provision of this chapter or fails to observe, obey, or comply with any order, decision, rule, regulation, direction, demand, or requirement of the commission, or who procures, aids, or abets any charter-party carrier of passengers in its violation of this chapter, or in its failure to obey, observe, or comply with any such order, decision, rule, regulation, direction, demand, or requirement, is guilty of a misdemeanor, and is punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than three months, or both.

SEC. 359. Section 7611 of the Public Utilities Code is amended to read:

7611. Any person or any employee of any railroad company, or the receiver or receivers thereof, who removes, carries away from its proper place, or uses any emergency first-aid kit, except for the purpose of administering first aid in the event of injury to any passenger, employee, or other person, is guilty of a misdemeanor, and is punishable by a fine of not less than fifty dollars ($50).

SEC. 360. Section 7810 of the Public Utilities Code is amended to read:

7810. Street railway cars shall be of the most approved construction for the comfort and convenience of passengers, and provided with brakes to stop them, when required. A violation of this section subjects the corporation to a fine of two hundred dollars ($200) for each offense.

SEC. 361. Section 7903 of the Public Utilities Code is amended to read:

7903. Every agent, operator, or employee of any telegraph or telephone office, who in any way uses or appropriates any information derived by him from any private message passing through his hands, and addressed to any other person, or in any other manner acquired by him by reason of his trust as such agent, operator, or employee, or trades or speculates upon any such information so obtained, or in any manner turns, or attempts to turn, the information so obtained to his own account, profit, or advantage, is punishable by imprisonment in the state prison, or by imprisonment in the county jail not exceeding one year, or by fine not exceeding ten thousand dollars ($10,000), or by both such fine and imprisonment.

SEC. 362. Section 8252 of the Public Utilities Code is amended to read:

8252. Each violation of this article by any person, firm, association, or corporation is a misdemeanor, and upon conviction thereof shall be punishable by a fine of not less than one hundred dollars ($100) and not more than six hundred dollars ($600), or by

imprisonment in the county jail for a period of not more than one (1) year, or by both such fine and imprisonment. In case of a public service corporation committing any violation of this article, the imprisonment when imposed shall be imposed upon the officers or agents thereof committing such offense.

SEC. 363. Section 16043 of the Public Utilities Code is amended to read:

16043. No director or other officer of the district shall in any manner be interested, directly or indirectly, in any contract awarded or to be awarded by the board, or in the profits to be derived from it. Violation of this section is a misdemeanor and a director or officer convicted shall forfeit his office, and shall be punished by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

SEC. 364. Section 21407.6 of the Public Utilities Code is amended to read:

21407.6. (a) Any person convicted under Section 21407.5 shall be punished upon a first conviction by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.

Any person convicted under Section 21407.5 shall be punished upon a second or any subsequent conviction by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000), without being granted probation by the court and without having the court suspend the execution of the sentence.

(b) Any person convicted under Section 21407.5 and who, when so operating an aircraft, has done any act forbidden by law or neglects any duty imposed by law in the operation of such aircraft, which act or neglect proximately causes bodily injury to any person other than himself shall be punished by imprisonment in the state prison, or in the county jail for not less than 90 days nor more than one year and by fine of not less than two hundred fifty dollars ($250) nor more than ten thousand dollars ($10,000).

SEC. 365. Section 461 of the Revenue and Taxation Code is amended to read:

461. Every person who willfully states anything which he knows to be false in any oral or written statement, not under oath, required or authorized to be made as the basis of imposing any tax or assessment, is guilty of a misdemeanor and upon conviction thereof may be punished by imprisonment in the county jail for a period not exceeding six months or by a fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 366. Section 462 of the Revenue and Taxation Code is amended to read:

462. Every person is guilty of a misdemeanor who, after written

request by the assessor, does any of the following:

(a) Refuses to make available to the assessor any information which is required by subdivision (d) of Section 441 of this code.

(b) Gives a false name.

(c) Willfully refuses to give his true name.

Upon conviction of any offense in this section, the defendant may be punished by imprisonment in the county jail for a period not exceeding six months or by a fine not exceeding one thousand dollars ($1,000), or by both.

If the defendant is a corporation, it may be punished by an additional fine of two hundred dollars ($200) for each day it refuses to comply with the provisions of this section, up to a maximum of twenty thousand dollars ($20,000).

SEC. 367. Section 6073 of the Revenue and Taxation Code is amended to read:

6073. (a) When the board determines it is necessary for the efficient administration of this part, the board may require the operator of a swap meet or flea market, as a prerequisite to renting or leasing space on the premises owned or controlled by such operator to a person desiring to engage in or conduct business as a seller, to obtain evidence that the seller is the holder of a valid seller's permit issued pursuant to Section 6067 of this part, or a written statement from the seller that he is not offering for sale any item that is taxable under this part.

(b) "Swap meet or flea market," as used in this section, means an activity involving a series of sales sufficient in number, scope and character to constitute a regular course of business.

(c) Any operator of a swap meet or flea market who fails or refuses to comply with the provisions of this section is punishable by a fine of not exceeding one thousand dollars ($1,000) for each offense.

SEC. 368. Section 7151 of the Revenue and Taxation Code is amended to read:

7151. Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor and subject to a fine of not exceeding one thousand dollars ($1,000) for each offense.

SEC. 369. Section 9351 of the Revenue and Taxation Code is amended to read:

9351. Any person who places or causes to be placed fuel into a receptacle on a motor vehicle from which receptacle fuel is supplied for the propulsion of the vehicle, or who acquires fuel outside this state and uses the fuel for the propulsion of a motor vehicle within this state, is guilty of a misdemeanor unless such person is a vendor and collects the tax as provided under Section 8732 or such person is a user who holds a valid use fuel tax permit, or is excluded from that requirement under the provisions of Section 8608 of this part, and uses the fuel placed in the receptacle. He shall be fined for each offense not less than one hundred dollars ($100) and not more than

one thousand dollars ($1,000), or be imprisoned for not exceeding six months in the county jail, or be subject to both fine and imprisonment in the discretion of the court.

SEC. 370. Section 9352 of the Revenue and Taxation Code is amended to read:

9352. Any person who fails or refuses to file any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board is guilty of a misdemeanor and subject to a fine of not exceeding one thousand dollars ($1,000) for each offense.

SEC. 371. Section 12832 of the Revenue and Taxation Code is amended to read:

12832. Every person who attempts or purports to exercise any of the rights, privileges or powers of a suspended domestic insurer or attempts to transact any intrastate business in this state in behalf of a forfeited foreign insurer is guilty of a misdemeanor. Upon conviction he shall be punished by a fine not exceeding two thousand dollars ($2,000), or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

SEC. 372. Section 30471 of the Revenue and Taxation Code is amended to read:

30471. Any person who fails or refuses to file any report required to be made, or who fails or refuses to furnish a supplemental report or other data required by the board, or who renders a false or fraudulent report is guilty of a misdemeanor and subject to a fine of not exceeding one thousand dollars ($1,000) for each offense

SEC. 373. Section 30474 of the Revenue and Taxation Code is amended to read:

30474. Any person who knowingly possesses, or keeps, stores or retains for the purpose of sale, or sells or offers to sell, any package of cigarettes to which there is not affixed the stamp or meter impression required to be affixed under this part, when such cigarettes have been obtained from any source whatever, is guilty of a misdemeanor and shall for each offense be fined not more than one thousand dollars ($1,000), or be imprisoned for not exceeding one year in the county jail, or be subject to both fine and imprisonment, in the discretion of the court. In addition to the fine or sentence, or both, each person convicted under this section shall pay fifty dollars ($50) for each carton of 200 cigarettes, or portion thereof, knowingly possessed, or kept, stored or retained for the purpose of sale, or sold or offered for sale in violation of this section, as determined by the court.

SEC. 374. Section 32554 of the Revenue and Taxation Code is amended to read:

32554. Every person convicted for a violation of any of the provisions of this part for which another penalty or punishment is not specifically provided for in this part is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six

months, or by both such fine and imprisonment.

SEC. 375. Section 32555 of the Revenue and Taxation Code is amended to read:

32555. Every person convicted of a felony for a violation of any of the provisions of this part for which another punishment is not specifically provided for in this part shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment in the state prison, or by both such fine and imprisonment.

SEC. 376. Section 38801 of the Revenue and Taxation Code is amended to read:

38801. Any timber owner or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or other data required by the board, is guilty of a misdemeanor and subject to a fine of not exceeding one thousand dollars ($1,000) for each offense, or be imprisoned for not exceeding one year in the county jail, or be subject to both the fine and imprisonment in the discretion of the court.

SEC. 377. Section 30846 of the Streets and Highways Code is amended to read:

30846. Any person not exempt from paying tolls who crosses on any ferry or toll bridge or passes through any lawfully maintained tollgate without paying the toll therefor, and with intent to avoid payment is punishable by a fine of not to exceed forty dollars ($40)

SEC. 378. Section 1957 of the Unemployment Insurance Code is amended to read:

1957. Any individual claiming benefits in any proceedings before the appeals board or its authorized representative may be represented by counsel or agent but no such counsel or agent shall charge or receive for such services more than an amount approved by the appeals board. Any person who violates any provision of this section shall for each such violation be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or be imprisoned not more than six months or both.

SEC. 379. Section 9875 of the Vehicle Code is amended to read:

9875. Any person who violates any provision of this chapter or any rule or regulation of the department is guilty of a misdemeanor and shall be subject to a fine of not to exceed one hundred dollars ($100) or imprisonment in the county jail for not to exceed five days, or both, for each violation.

SEC. 380. Section 10851.5 of the Vehicle Code is amended to read:

10851.5. Any person who takes binder chains, required under regulations adopted pursuant to Section 31510, having a value of four hundred dollars ($400) or less which chains are not his own, without the consent of the owner thereof, and with intent either permanently or temporarily to deprive the owner thereof of his title to or possession of the binder chains whether with or without intent to steal the same, or any person who is a party or accessory to or an accomplice in the unauthorized taking or stealing is guilty of a misdemeanor, and upon conviction thereof shall be punished by

imprisonment in the county jail for not less than six months or by a fine of not less than one thousand dollars ($1,000) or by both such fine and imprisonment. The consent of the owner of the binder chain to its taking shall not in any case be presumed or implied because of such owner's consent on a previous occasion to the taking of the binder chain by the same or a different person.

SEC. 384. Section 11520 of the Vehicle Code is amended to read:

11520. (a) A licensed automobile dismantler who acquired, for the purpose of dismantling, actual possession, as a transferee, of a vehicle of a type subject to registration under this code:

(1) Shall within five calendar days, not including the day of acquisition, mail a notice of acquisition to the department at its headquarters.

(2) Shall within five calendar days, not including the day of acquisition, mail a copy of the notice of acquisition to the Department of Justice at its headquarters.

(3) Shall not begin dismantling until 10 calendar days have elapsed after mailing the notice of acquisition. In the alternative, dismantling may begin any time after the dismantler complies with the provisions of paragraph (4).

(4) Shall deliver to the department, within 90 calendar days of the date of acquisition, the documents evidencing ownership and the license plates last issued for the vehicle. Proof that a registered or certified letter of demand for the documents was sent within 90 days of the date of acquisition to the person from whom the vehicle was acquired may be substituted for documents that cannot otherwise be obtained. A certificate of license plate destruction, when authorized by the director, may be delivered in lieu of the license plates.

(5) Shall maintain a business record of all vehicles acquired for dismantling. The record shall contain the name and address of the person from whom such vehicle was acquired; the date the vehicle was acquired; license plate number last assigned to the vehicle; and a brief description of the vehicle, including its make, type, and the vehicle identification number used for registration purposes. The record required by this subdivision shall be a business record of the dismantler separate and distinct from the records maintained in those books and forms furnished by the department.

(b) The provisions of paragraphs (1) and (2) of subdivision (a), shall not apply to vehicles acquired pursuant to Section 11515 or 22705 of this code or Sections 3071, 3072, or 3073 of the Civil Code.

(c) Any person, other than a licensed dismantler, desiring to dismantle a vehicle of a type subject to registration under this code shall deliver to the department the certificate of ownership, registration card, and the license plates last issued to the vehicle before dismantling may begin.

(d) Any person who violates this section is guilty of a misdemeanor. Any person not licensed under the provisions of this chapter who is convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than

five days or more than six months or by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment; and upon a second or any subsequent conviction, by imprisonment in the county jail for not less than 30 days nor more than one year or by a fine of not less than two hundred fifty dollars ($250) nor more than two thousand dollars ($2,000) or by both such fine and imprisonment.

SEC. 385. Section 14601 of the Vehicle Code is amended to read:

14601. (a) No person shall drive a motor vehicle at any time when that person's driving privilege is suspended or revoked for reckless driving in violation of Section 23103 or 23104, any reason listed in subdivisions (b) through (f) of Section 12805 requiring the department to refuse to issue a license, negligent or incompetent operation of a motor vehicle as prescribed in subdivision (e) of Section 12809, or negligent operation as prescribed in Section 12810, and when the person so driving has knowledge of the suspension or revocation. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not less than five days nor more than six months and by fine of not more than one thousand dollars ($1,000).

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1 or 14601.2, by imprisonment in the county jail for not less than 10 days nor more than one year and by fine of not more than two thousand dollars ($2,000).

(c) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section 14601.1 or 14601.2 and is granted probation, the court shall impose as a condition of probation that the person be confined in the county jail for at least 10 days.

SEC. 386. Section 14601.1 of the Vehicle Code is amended to read:

14601.1. (a) No person shall drive a motor vehicle when his or her driving privilege is suspended or revoked for any reason other than those listed in Section 14601 or 14601.2 and when the person so driving has knowledge of the suspension or revocation. Knowledge shall be presumed if notice has been given by the department to the person. The presumption established by this subdivision is a presumption affecting the burden of proof.

(b) Any person convicted under this section shall be punished as follows:

(1) Upon a first conviction, by imprisonment in the county jail for not more than six months or by a fine of not more than five hundred dollars ($500), or by both that fine and imprisonment.

(2) If the offense occurred within five years of a prior offense which resulted in a conviction of a violation of this section or Section

14601 or 14601.2, by imprisonment in the county jail for not less than five days nor more than one year and by a fine of not more than two thousand dollars ($2,000).

SEC. 387. Section 16023 of the Vehicle Code is amended to read:

16023. Any person who, after having filed proof of financial responsibility pursuant to Section 16022, subsequently drives any motor vehicle on a highway, and any owner of such a vehicle who, after having filed proof of financial responsibility pursuant to Section 16022, subsequently either drives the motor vehicle or who permits the driving of such vehicle on the highway, without having in full force and effect a form of financial responsibility described in Section 16021, is guilty of an infraction and shall be punished for each such offense by a fine of not less than two hundred dollars ($200), and provided that the court may, in its discretion, impose a condition of probation by requiring the person to file proof in accordance with the provisions of Article 3 (commencing with Section 16050) of this chapter for the duration of the term of probation.

SEC. 388. Section 16560 of the Vehicle Code is amended to read:

16560. Any person or corporation who operates or causes to be operated on the highways of this state any motor vehicle in the transportation of property for compensation in interstate commerce without having first complied with the requirements of Chapter 2 (commencing with Section 3901) of Division 2 of the Public Utilities Code is guilty of a misdemeanor, and is punishable by a fine of not more than one thousand dollars ($1,000), or by imprisonment in the county jail for not more than three months, or both.

SEC. 389. Section 20001 of the Vehicle Code is amended to read:

20001. The driver of any vehicle involved in an accident resulting in injury to any person, other than himself, or death of any person shall immediately stop the vehicle at the scene of the accident and shall fulfill the requirements of Sections 20003 and 20004.

Any person failing to comply with all the requirements of this section under such circumstances is guilty of a public offense and upon conviction thereof shall be punished by imprisonment in the state prison, or in the county jail for not to exceed one year or by fine of not to exceed ten thousand dollars ($10,000) or by both.

SEC. 390. Section 20002 of the Vehicle Code is amended to read:

20002. (a) The driver of any vehicle involved in an accident resulting in damage to any property, including vehicles, shall immediately stop the vehicle at the scene of the accident and shall then and there do one of the following:

(1) Locate and notify the owner or person in charge of such property of the name and address of the driver and owner of the vehicle involved and, upon locating the driver of any other vehicle involved or the owner or person in charge of any damaged property, upon being requested, present his driver's license and vehicle registration to the other driver, property owner, or person in charge of such property. The information presented shall include the current residence address of the driver and of the registered owner.

If the registered owner of an involved vehicle is present at the scene, he shall also, upon request, present his driver's license information, if available, or other valid identification to the other involved parties.

(2) Leave in a conspicuous place on the vehicle or other property damaged a written notice giving the name and address of the driver and of the owner of the vehicle involved and a statement of the circumstances thereof and shall without unnecessary delay notify the police department of the city wherein the collision occurred or, if the collision occurred in unincorporated territory, the local headquarters of the Department of the California Highway Patrol.

Any person failing to comply with all the requirements of this section is guilty of a misdemeanor and upon conviction thereof shall be punished by imprisonment in the county jail for not to exceed six months or by a fine of not to exceed one thousand dollars ($1,000) or by both.

(b) Any person who parks a vehicle which, prior to the vehicle again being driven, becomes a runaway vehicle and is involved in an accident resulting in damage to any property, attended or unattended, shall comply with the requirements of this section relating to notification and reporting and shall, upon conviction thereof, be liable to the penalties of this section for failure to comply with such requirements.

SEC. 391. Section 21702 of the Vehicle Code is amended to read:

21702. (a) No person shall drive upon any highway any vehicle designed or used for transporting persons for compensation for more than 10 consecutive hours nor for more than 10 hours spread over a total of 15 consecutive hours. Thereafter, such person shall not drive any such vehicle until eight consecutive hours have elapsed.

Regardless of aggregate driving time, no driver shall drive for more than 10 hours in any 24-hour period unless eight consecutive hours off duty have elapsed.

(b) No person shall drive upon any highway any vehicle designed or used for transporting merchandise, freight, materials or other property for more than 12 consecutive hours nor for more than 12 hours spread over a total of 15 consecutive hours. Thereafter, such person shall not drive any such vehicle until eight consecutive hours have elapsed.

Regardless of aggregate driving time, no driver shall drive for more than 12 hours in any 24-hour period unless eight consecutive hours off duty have elapsed.

(c) This section does not apply in any case of casualty or unavoidable accident or an act of God.

(d) In computing the number of hours under this section, any time spent by a person in driving such a vehicle outside this state shall, upon the vehicle entering this state, be included.

(e) Any person who violates any provision of this section is guilty of a misdemeanor and is punishable by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each offense.

(f) This section shall not apply to the driver of a vehicle which is subject to the provisions of Section 34500.

SEC. 392. Section 21713 of the Vehicle Code is amended to read:

21713. No person shall operate on any highway any privately owned armored car unless a license to operate such car has first been obtained from the commissioner in accordance with Chapter 2.5 (commencing with Section 2500) of Division 2.

Violation of this section is a misdemeanor and upon conviction is punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not to exceed six months or by both such fine and imprisonment.

SEC. 393. Section 23103 of the Vehicle Code is amended to read:

23103. Any person who drives any vehicle upon a highway in willful or wanton disregard for the safety of persons or property is guilty of reckless driving and, upon conviction thereof, shall be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by a fine of not less than one hundred forty-five dollars ($145) nor more than one thousand dollars ($1,000), or by both fine and imprisonment, except as provided in Section 23104.

SEC. 394. Section 23104 of the Vehicle Code is amended to read:

23104 Whenever reckless driving of a vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by a fine of not less than two hundred twenty dollars ($220) nor more than one thousand dollars ($1,000), or by both fine and imprisonment.

SEC. 395. Section 23109 of the Vehicle Code is amended to read:

23109. (a) No person shall engage in any motor vehicle speed contest on a highway, and no person shall aid or abet in any motor vehicle speed contest on any highway.

(b) No person shall engage in any motor vehicle exhibition of speed on a highway, and no person shall aid or abet in any motor vehicle exhibition of speed on any highway.

(c) No person shall for the purpose of facilitating or aiding or as an incident to any motor vehicle speed contest or exhibition upon a highway in any manner obstruct or place any barricade or obstruction or assist or participate in placing any barricade or obstruction upon any highway.

(d) Any person who violates this section shall upon conviction thereof be punished by imprisonment in the county jail for not more than 90 days or by fine of not more than five hundred dollars ($500) or by both such fine and imprisonment.

SEC. 396. Section 31618 of the Vehicle Code is amended to read:

31618. Where not specifically provided otherwise, it is unlawful and constitutes a misdemeanor for any person to violate any provision of this division. Every person convicted of a misdemeanor for a violation of any of the provisions of this division shall be punished by a fine of not more than one thousand dollars ($1,000),

or by imprisonment for not more than six months, or by both such fine and imprisonment.

SEC. 397. Section 38316 of the Vehicle Code is amended to read:

38316. (a) It is unlawful for any person to drive any off-highway motor vehicle with a willful and wanton disregard for the safety of other persons or property.

(b) Any person who violates this section shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than five days nor more than 90 days or by fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by both such fine and imprisonment, except as provided in Section 38317.

SEC. 398. Section 38317 of the Vehicle Code is amended to read:

38317. Whenever reckless driving of an off-highway motor vehicle proximately causes bodily injury to any person, the person driving the vehicle shall, upon conviction thereof, be punished by imprisonment in the county jail for not less than 30 days nor more than six months or by fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment

SEC. 399. Section 38320 of the Vehicle Code is amended to read:

38320. (a) No person shall throw or deposit, nor shall the registered owner or the driver, if such owner is not then present in the vehicle, aid or abet in the throwing or depositing, upon any area, public or private, any bottle, can, garbage, glass, nail, offal, paper, wire, any substance likely to injure or kill wild or domestic animal or plant life or damage traffic using such area, or any noisome, nauseous or offensive matter of any kind.

(b) No person shall place, deposit or dump, or cause to be placed, deposited or dumped, any rocks or dirt in or upon any area, public or private, without the consent of the property owner or public agency having jurisdiction over the area.

(c) Any person who violates this section shall, upon conviction thereof, be punished by a fine of not less than fifty dollars ($50). No part of such fine shall be suspended. The court may permit the fine required by this section to be paid in installments if the court determines that the defendant is unable to pay the fine in one lump sum.

SEC. 400. Section 39011 of the Vehicle Code is amended to read:

39011. No fine imposed for any violation of an ordinance or resolution, which is adopted pursuant to this division, shall exceed ten dollars ($10).

SEC. 401. Section 42000 of the Vehicle Code is amended to read:

42000. Unless a different penalty is expressly provided by this code, every person convicted of a felony for a violation of any provision of this code shall be punished by a fine of not less than one thousand dollars ($1,000) or more than ten thousand dollars ($10,000) or by imprisonment in the state prison or by both such fine and imprisonment.

SEC. 402. Section 42001 of the Vehicle Code is amended to read:

42001. (a) Except as provided in Sections 42001.5 and 42001.9, every person convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished upon a first conviction by a fine not exceeding one hundred dollars ($100) and for a second conviction within a period of one year by a fine of not exceeding two hundred dollars ($200) and for a third or any subsequent conviction within a period of one year by a fine of not exceeding two hundred fifty dollars ($250).

(b) Every person convicted of a misdemeanor violation of Sections 2800, 2801, and 2803 insofar as they affect failure to stop and submit to inspection of equipment or for an unsafe condition endangering any person, and Section 2800.1, shall be punished upon a first conviction by a fine not exceeding fifty dollars ($50) or by imprisonment in the county jail for not exceeding five days and for a second conviction within a period of one year by a fine of not exceeding one hundred dollars ($100) or by imprisonment in the county jail for not exceeding 10 days, or by both such fine and imprisonment and for a third or any subsequent conviction within a period of one year by a fine of not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding six months or by both such fine and imprisonment.

(c) Notwithstanding the provisions of subdivision (a), every pedestrian convicted of an infraction for a violation of this code or of any local ordinance adopted pursuant to this code shall be punished by a fine not exceeding fifty dollars ($50).

(d) Subdivision (a) shall have no application to any violation punishable pursuant to Section 42001.7, any violation by a pedestrian, or Article 2 (commencing with Section 42030) of Chapter 1 of this division relating to weight violations.

SEC. 403. Section 42001.7 of the Vehicle Code is amended to read:

42001.7. Every person convicted of a violation of Section 23111 or 23112, or subdivision (a) of Section 23113, shall be punished by a mandatory fine of not less than twenty dollars ($20) nor more than one thousand dollars ($1,000) upon a first conviction, by a mandatory fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) upon a second conviction, and by a mandatory fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) upon a third or subsequent conviction.

The court may, in addition to the fine imposed upon a second or subsequent conviction, require as a condition of probation, in addition to any other condition of probation, that any person convicted of a violation of this section pick up litter at a time and place within the jurisdiction of the court for not less than four hours upon a second conviction and for not less than eight hours upon a third or subsequent conviction.

SEC. 404 Section 42002 of the Vehicle Code is amended to read:

42002. Unless a different penalty is expressly provided by this code, every person convicted of a misdemeanor for a violation of any of the provisions of this code shall be punished by a fine of not

exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not exceeding six months, or by both such fine and imprisonment.

SEC. 405. Section 309 of the Water Code is amended to read:

309. Any person who violates any of the provisions of this article is punishable for each offense by a fine of not less than fifty dollars ($50) and not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than six months, or by both.

SEC. 406. Section 377 of the Water Code is amended to read:

377. From and after the publication or posting of any ordinance or resolution pursuant to Section 376, violation of a requirement of a water conservation program adopted pursuant to Section 376 is a misdemeanor. Upon conviction thereof such person shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding one thousand dollars ($1,000), or by both.

SEC. 407. Section 4177 of the Water Code is amended to read:

4177. Every person who violates any of the provisions of this chapter or of Chapter 4 of this part is guilty of a misdemeanor and is punishable by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500), 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.

SEC. 408. Section 5008 of the Water Code is amended to read:

5008. The making of any willful misstatement in any notice shall be a misdemeanor, punishable by a fine of not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not to exceed six months, or both.

SEC. 409. Section 5107 of the Water Code is amended to read:

5107. The making of any willful misstatement pursuant to this part is a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment in the county jail for not to exceed six months, or both.

SEC. 410. Section 31029 of the Water Code is amended to read:

31029. From and after the publication or posting of any ordinance as provided in Section 31027 above, it shall be a misdemeanor for any person to use or apply water received from the district contrary to or in violation of such restriction or prohibition, until such ordinance shall have been repealed or such emergency or threatened emergency shall have ceased, and upon conviction thereof such person shall be punished by being imprisoned in the county jail for not more than 30 days or by fine of not more than six hundred dollars ($600), or by both such fine and imprisonment.

SEC. 411. Section 31142 of the Water Code is amended to read:

31142. From and after the posting or publication of any ordinance as provided in Section 31141 above, it shall be a misdemeanor for any person to violate any ordinance of the district adopted pursuant to Section 31141, and upon conviction thereof, such person shall be

punished by being imprisoned in the county jail for not more than 30 days, or by fine of not more than six hundred dollars ($600), or by both such fine and imprisonment.

SEC. 412. Section 31149 of the Water Code is amended to read:

31149. Any violation of a regulation of the district adopted pursuant to Section 31145 is a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000), or imprisonment not to exceed 60 days, or by both such fine and imprisonment. Each day of such a violation shall constitute a separate offense. Any violation or threatened violation of a regulation of the district may also be enjoined by civil suit.

SEC. 413. Section 31638.5 of the Water Code is amended to read:

31638.5. It shall be unlawful to produce water from within any area of benefit after one year following the levy of a replenishment assessment within such area, unless the well or other water-producing facility producing such water shall have a water-measuring device affixed thereto which is capable of measuring and registering the accumulated amount of water produced. The provisions of this section shall not be applicable to minimal pumpers. The district by written agreement with any producer shall provide, install, maintain, own and read such water-measuring device. Violation thereof shall be punishable by a fine not to exceed six hundred dollars ($600), or by imprisonment in the county jail not to exceed 30 days, or by both such fine and imprisonment.

SEC. 414. Section 35424 of the Water Code is amended to read:

35424. After equitable rules and regulations for the distribution of water have been published once a week for two weeks in a newspaper of general circulation published in each affected county, any violation thereof is a misdemeanor and the violator shall, upon conviction thereof, be subject to a fine of not less than fifty dollars ($50) nor more than two hundred dollars ($200).

SEC. 415. Section 55334 of the Water Code is amended to read:

55334. Any violation of a regulation or ordinance of a district is a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000), or imprisonment not to exceed six months, or both.

SEC. 416. Section 60342 of the Water Code is amended to read:

60342. It shall be unlawful to produce groundwater from any water-producing facility within any district from and after one year following the adoption of the resolution provided for in Section 60305 hereof, unless such water-producing facility shall have a water-measuring device affixed thereto capable of registering the accumulated amount of groundwater produced therefrom.

The board by resolution may extend such date on a year-to-year basis upon its determination that availability, price of water-measuring devices, or other circumstances justify such extension. Should the date be extended, notice thereof shall be published in the district pursuant to Section 6066 of the Government Code, such publication to be completed not less than two months

prior to the date so extended.

This section shall not be applicable to any operator of a water-producing facility having a discharge opening two inches or less in diameter and providing groundwater for domestic or irrigation uses on an area not exceeding one acre in extent, who is required to pay a replenishment assessment in an amount fixed by resolution of the board of the district as hereinabove in this act provided.

Violation of this section shall be punishable by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment. Each day of operation of a water-producing facility in violation hereof shall constitute a separate offense.

SEC. 417 Section 71644 of the Water Code is amended to read:

71644. From and after the publication or posting of any ordinance pursuant to Section 71641, and until the ordinance has been repealed or the emergency or threatened emergency has ceased, it is a misdemeanor for any person to use or apply water received from the district contrary to or in violation of any restriction or prohibition specified in the ordinance. Upon conviction thereof such person shall be punished by imprisonment in the county jail for not more than 30 days, or by fine not exceeding six hundred dollars ($600), or by both.

SEC. 418. Section 71689.6 of the Water Code is amended to read:

71689.6. It shall be unlawful to produce groundwater from any water-producing facility within any district from and after one year following the adoption of the resolution provided for in Section 71686 hereof, unless such water-producing facility shall have a water-measuring device affixed thereto capable of registering the accumulated amount of groundwater produced therefrom.

The board by resolution may extend such date on a year-to-year basis upon its determination that availability, price of water-measuring devices, or other circumstances justify such extension. Should the date be extended, notice thereof shall be published in the district pursuant to Section 6066 of the Government Code, such publication to be completed not less than two months prior to the date so extended.

This section shall not be applicable to any operator of a water-producing facility having a discharge opening two inches or less in diameter and providing groundwater for domestic or irrigation uses on an area not exceeding one acre in extent, who is required to pay a replenishment assessment in an amount fixed by resolution of the board of the district as hereinabove in this part provided.

Violation of this section shall be punishable by a fine not to exceed one thousand dollars ($1,000), or by imprisonment in the county jail for not to exceed six months, or by both such fine and imprisonment. Each day of operation of a water-producing facility in violation hereof shall constitute a separate offense.

SEC. 419. Section 71689.27 of the Water Code is amended to read:

71689.27. From and after the posting or publication of any ordinance as provided in Section 71689.26, it shall be a misdemeanor for any person to violate any ordinance of the district adopted pursuant to Section 71689.26, and upon conviction thereof, such person shall be punished by being imprisoned in the county jail for not more than 30 days, or by fine of not more than six hundred dollars ($600), or by both such fine and imprisonment.

SEC. 420. Section 7326 of the Welfare and Institutions Code is amended to read:

7326. Any person who willfully assists any judicially committed or remanded patient of a state hospital or other public or private mental health facility to escape, to attempt to escape therefrom, or to resist being returned from a leave of absence shall be punished by imprisonment in the state prison, a fine of not more than ten thousand dollars ($10,000), or both such imprisonment and fine; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than two thousand dollars ($2,000), or both such imprisonment and fine.

SEC. 421. Section 8101 of the Welfare and Institutions Code is amended to read:

8101 Any person who shall knowingly supply, sell, give, or allow possession or control of any deadly weapon as defined in Section 12022 of the Penal Code to any person who is a mental patient in any public or private hospital or institution or on leave of absence from any such hospital or institution shall be punishable by imprisonment in a state prison, or in a county jail for a period of not exceeding one year, by a fine of not exceeding one thousand dollars ($1,000), or by both such fine and imprisonment.

SEC. 422. Section 11483 of the Welfare and Institutions Code is amended to read:

11483. Whenever any person has, by means of false statement or representation or by impersonation or other fraudulent device, obtained aid for a child not in fact entitled thereto, the person obtaining such aid shall be punished as follows:

(1) If the amount obtained or retained is four hundred dollars ($400) or less, by imprisonment in the county jail for a period of not more than six months, a fine of not more than five hundred dollars ($500), or by both such imprisonment and fine.

(2) If the amount obtained or retained is more than four hundred dollars ($400), by imprisonment in the state prison, or by imprisonment in the county jail for not more than one year.

When the allegation is limited to failure to report not more than two thousand dollars ($2,000) of income or resources, or the failure to report the presence of an additional person or persons in the household, all actions necessary to secure restitution shall be brought against persons in violation of this section as provided in Sections 12250 and 12850. Such action for restitution may be satisfied by sending a registered letter requesting restitution to the last address

at which the person was receiving public assistance.

SEC. 423. Section 2 of Chapter 116 of the Statutes of 1982 is repealed.

SEC. 423.5. Any section of any act enacted by the Legislature during the 1983 portion of the 1983–1984 Regular Session, which takes effect on or before January 1, 1984, and which amends, amends and renumbers, adds, repeals and adds, or repeals a section amended, amended and renumbered, repealed and added, or repealed by this act, shall prevail over this act, whether that act is enacted prior to or subsequent to this act. This section shall not apply to the amendment of Section 13969 of the Government Code, or the amendment, repeal or addition of Section 13967 of the Government Code, Section 9891.24 of the Business and Professions Code, or Section 1202.4, 1205.5, or 1464 of the Penal Code by any act of the Legislature.

SEC. 424. This act is part of the Crime Victim Restitution Program of 1983, in that it increases the amount of money in the Restitution Fund available to provide restitution to crime victims by doubling fines and requiring a restitution fine to be imposed in every criminal case.

SEC. 425. Notwithstanding the second paragraph of Provision 4 of Item 8100-101-214 of the Budget Act of 1983, any increased revenues deposited in the Indemnity Fund shall remain in that fund subject to continuous appropriation pursuant to Section 13969 of the Government Code.

SEC. 425.5. 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. 426. This act is an urgency statute necessary for the immediate preservation of 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:

Provisions of law which were recently enacted (Ch. 80, Stats. 1982), changed certain monetary limits with respect to misappropriated property or labor, which form the basis upon which a crime is classified as either a misdemeanor or felony. In order to insure that similar violations of the law are punishable by similar penalties, it is necessary for this act to take effect immediately.

SEC. 427. This act shall become operative January 1, 1984. Section 326 of this act shall remain operative only until January 1, 1986, and as of such date is repealed.

CHAPTER 1093

An act to repeal and add Section 33002 of the Vehicle Code, relating to transportation of radioactive materials.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 33002 of the Vehicle Code is repealed.

SEC. 2. Section 33002 is added to the Vehicle Code, to read:

33002. (a) Prior to the transport of any hazardous radioactive materials containing cargoes of commercially produced, spent radioactive fuel outside the confines of a facility where that material was used or stored, or prior to the delivery of these materials to a carrier for transport, each carrier shall provide advance notification, in writing, of the shipment to the Department of the California Highway Patrol, which, in turn, shall notify all of the following persons:

(1) The fire chiefs of each city and county fire department and the fire chiefs of each fire protection district serving a population greater than 15,000, which city, county, or fire protection district is located along the proposed route. The Department of the California Highway Patrol, however, shall only notify those fire chiefs which have requested, in writing, to be so notified. A fire chief may revoke this request, in writing, at any time.

This paragraph shall not apply to any fire chief of a fire department or fire protection district which is composed of 50 percent or more volunteer firefighters.

(2) The police chiefs of each city where surface transportation would occur along the proposed route.

(b) Subdivision (a) shall apply only to the extent that it does not conflict with federal law.

(c) Each advance notification shall contain the following information:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the shipment.

(2) If the shipment is originating within California, the point of origin of the shipment and the 48-hour period during which departure of the shipment is estimated to occur, the destination of the shipment within Calilfornia, and the 48-hour period during which the shipment is estimated to arrive.

(3) If the shipment is originating outside of California, the point of origin of the shipment and the 48-hour period during which the shipment is estimated to arrive at state boundaries, the destination of the shipment within California, and the 48-hour period during which the shipment is estimated to arrive.

(4) A telephone number and address for current shipment

information.

(d) The Department of the California Highway Patrol shall design a standard notification form to include all of the information specified in subdivision (c) and shall make these forms available by April 1, 1984.

(e) The notification is required to reach the Department of the California Highway Patrol at least 72 hours before the beginning of the 48-hour period during which departure of the shipment is estimated to occur and the Department of the California Highway Patrol shall notify the fire chiefs who have requested notification and the police chiefs specified in subdivision (a) at least 36 hours before the beginning of this 48-hour period. A copy of the notification shall be retained by the Department of the California Highway Patrol for three years.

(f) The carrier shall also notify, by telephone or telegram, the Department of the California Highway Patrol if there are any changes in the scheduling of a shipment, in the routes to be used for a shipment, or any cancellation of a shipment. The Department of the California Highway Patrol shall, in turn, notify the fire chiefs who have requested notification and the police chiefs specified in subdivision (a) that would be affected by these changes in the scheduling of a shipment, in the routes to be used for a shipment, or the cancellation of a shipment. The Department of the California Highway Patrol shall maintain for three years a record of each telegram and telephonic notification.

(g) Any person or agency that receives any information pursuant to this section shall not disseminate or reveal this information to any other person, state agency, city, county, or local agency unless the person or agency determines that disseminating or revealing this information is necessary to protect the public health and safety or the environment.

(h) The Governor shall appoint the fire chiefs eligible to request notification, as specified in paragraph (1) of subdivision (a), as the designated representatives of the Governor pursuant to paragraph (1) of subsection (c) of Section 73.21 of Title 10 of the Code of Federal Regulations for the purpose of receiving information classified as safeguards information pursuant to Part 73 of Title 10 of the Code of Federal Regulations.

(i) Any carrier who violates this section, in addition to any penalty provided by law, is subject to a civil penalty of not more than five hundred dollars ($500) for each violation. For purposes of this section, each day of a continuing violation is a separate and distinct violation.

When establishing the amount of civil liability pursuant to this subdivision, the court shall consider, in addition to other relevant circumstances, the following:

(1) The extent of the harm caused by the violation.

(2) The persistence of the violation.

(3) The number of prior violations by the same violator.

(4) The deterrent value of the penalty based on the financial resources of the violator.

CHAPTER 1094

An act to add Section 2924i to the Civil Code, relating to secured obligations.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 2924i is added to the Civil Code, to read:

2924i. (a) This section applies to loans secured by a deed of trust or mortgage on real property containing one to four residential units at least one of which at the time the loan is made is or is to be occupied by the borrower if the loan is for a period in excess of one year and is a balloon payment loan.

(b) This section shall not apply to (1) open-end credit as defined in Regulation Z, whether or not the transaction is otherwise subject to Regulation Z, (2) transactions subject to Section 2956, or (3) loans made for the principal purpose of financing the construction of one or more residential units.

(c) At least 90 days but not more than 150 days prior to the due date of the final payment on a loan that is subject to this section, the holder of the loan shall deliver or mail by first-class mail to the trustor, or his or her successor in interest, at the last known address of that person, a written notice which shall include all of the following:

(1) A statement of the name and address of the person to whom the final payment is required to be paid.

(2) The date on or before which the final payment is required to be paid.

(3) The amount of the final payment, or if the exact amount is unknown, a good faith estimate of the amount thereof, including unpaid principal, interest and any other charges, such amount to be determined assuming timely payment in full of all scheduled installments coming due between the date the notice is prepared and the date when the final payment is due.

(4) If the borrower has a contractual right to refinance the final payment, a statement to that effect.

(d) For purposes of this section:

(1) A "balloon payment loan" is a loan which provides for a final payment as originally scheduled which is more than twice the amount of any of the immediately preceding six regularly scheduled payments or which contains a call provision, provided, however, that if the call provision is not exercised by the holder of the loan, the

existence of the unexercised call provision shall not cause the loan to be deemed to be a balloon payment loan.

(2) "Call provision" means a loan contract term that provides the holder of the loan with the right to call the loan due and payable either after a specified period has elapsed following closing or after a specified date.

(3) "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the Federal Truth in Lending Act, as amended (15 U.S.C. 1601 et seq.), and any interpretation or approval thereof issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(e) Failure to provide notice as required by subdivision (a) does not extinguish any obligation of payment by the borrower, except that the due date for any balloon payment shall be the date specified in the balloon payment note, or 90 days from the date of delivery or mailing of the notice required by subdivision (a), or the due date specified in the notice required by subdivision (a), whichever date is later. If the operation of this section acts to extend the term of any 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 payment schedule specified in the note and shall be credited to principal or interest under the terms of the note. Default in any extended periodic payment shall be considered a default under terms of the note or security instrument.

(f) (1) The validity of any credit document or of any security document subject to the provisions of this section shall not be invalidated solely because of the failure of any person to comply with this section. However, any person who willfully violates any provision of this section shall be liable in the amount of actual damages suffered by the debtor as the proximate result of the violation, and, if the debtor prevails in any suit to recover that amount, for reasonable attorney's fees.

(2) No person may be held liable in any action under this section 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.

(g) The provisions of this section shall apply to any note executed on or after January 1, 1984.

CHAPTER 1095

An act to amend Sections 4006, 4012, 72035, 72425, 74104, 74230, 76160, 84890, 84891, and 84895 of, to amend and renumber Section 72250 of, to add Section 72403 to, to repeal Sections 74231, 74260, and 74261 of, and to add Article 2.5 (commencing with Section 84735) to Chapter 5 of Part 50 of, the Education Code, to add Section 15820.11 to the Government Code, and to amend the Budget Act of 1983 by adding Item 6440-301-993 thereto, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 4006 of the Education Code is amended to read:

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.

(c) Vacancies on the county committee which occur prior to the expiration of the term of office of a member of the county committee, which are caused by the happening of any of the events specified in Section 1770 of the Government Code, shall be filled as follows:

(1) In a county in which the members of the county committee are appointed by the county superintendent of schools, by the appointment of the county superintendent of schools.

(2) In a county in which the members of the county committee are elected by the representatives of the governing boards, by the majority vote of the remaining members of the committee. However, if the remaining members of the committee do not fill the vacancy within 60 days of its occurrence, the county superintendent of schools shall fill the vacancy by his or her appointment.

Persons elected or appointed to fill a vacancy pursuant to this subdivision shall hold office for the remainder of the unexpired term.

SEC. 2. Section 4012 of the Education Code is amended to read:

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. The county superintendent

of schools shall serve as the secretary of the county committee.

SEC. 3. Section 72035 of the Education Code is amended to read:

72035. (a) The members of the governing board of any unified district which has an average daily attendance of 100,000 or more as of October 1971, and which maintains a community college shall call an election for the purpose of determining whether the members shall continue to serve also as members of the governing board of any unified school district having boundaries which are coterminous with the boundaries of the community college district. The election shall be held at the general election in accordance with the provisions of this code for conducting a regular election of governing board members. The ballots used in the election shall contain the words "Separate Community College Board—Yes" and "Separate Community College Board—No." The governing board of the district maintaining a community college shall prepare an impartial statement explaining the ballot measures and the expected results of continuing a common governing board or establishing two separate boards and this statement shall be distributed to the voters with the sample ballot and "pro" and "con" arguments, if any, as provided by law. Each elector voting at the election shall indicate the answer he or she desires to give in accordance with regular election procedures.

(b) If the proposition for a separate community college governing board receives a majority "yes" vote, those persons who serve as members of the governing boards of both a community college district and any unified school district shall, on or before June 1, 1973, choose on which of the two boards they will continue to serve. Those persons who choose to serve as members of either the governing boards of a community college district or the governing board of any unified school district shall continue to serve also as members of the governing board from which they have chosen to withdraw until their successors on those boards are elected after June 1, 1973, and have assumed office. If the city charter of the city in which the unified school district is located in whole or in part governs the appointment, nomination, or election of members of the governing board of the unified school district, the new governing board of the community college district also shall be governed by that city charter so that the separate governing boards of both the unified and community college districts after June 1, 1973, shall be appointed or nominated and elected at the same elections, under the same conditions and for the same terms of office set forth in that city charter.

(c) The election of the members of the first community college governing board shall be conducted no later than the next election held for the nomination and election of governing board members of the unified district and under the same conditions and for the same terms of office pursuant to city charter except as set forth below. Prior to those elections, and only for those elections, the governing board of the unified district shall designate three positions on the new community college district governing board for which

the initial term of office shall be four years and two positions for which the initial term of office shall be two years. Thereafter, all elections of the governing board members of the community college district shall be held under the same conditions, at the same times, and for the same terms as elections for the unified district governing board pursuant to city charter. The governing board of the unified district shall continue to govern the community college district until members of the new governing board of the community college district are elected and qualified to serve, at which time the governance of the community college district shall pass to the new governing board of the community college district.

(d) The governing board of the unified district may, if it deems such action appropriate, call two special elections within the community college district prior to the dates set forth by law for the primary and general elections of members of the governing board of the unified district, for the purpose of permitting the people of the community college district to nominate and elect governing board members of the community college district at the earliest possible time after the November 7, 1972, election. If these special primary and general elections are called, the governing board of the unified district shall designate for these elections, and only for these elections, (1) three positions on the new community college district governing board for which the initial term of office shall be four years plus the necessary number of days to allow such term to end on the same date as the end of the term of a member of the unified district governing board whose term expires in December, 1977, and (2) two positions on the new community college district governing board for which the initial term of office shall be two years plus the necessary number of days to allow such term to end on the same date as the end of the term of a member of the unified district governing board whose term expires in December, 1975. These elections shall be held, insofar as possible, under the same conditions as elections for the unified district governing board pursuant to a city charter. Thereafter, all elections of governing board members of the community college district shall be held under the same conditions, at the same times, and for the same terms as elections for the unified district governing board pursuant to a city charter. The governing board of the unified district shall continue to govern the community college district until members of the new governing board of the community college district are elected and qualified to serve, at which time the governance of the community college district shall pass to the new governing board of the community college district.

(e) Each member of the separate governing board of the community college district shall receive the same compensation as received by members of the separate governing board of the unified district under Section 72425, notwithstanding any requirements to the contrary contained in that section.

(f) Notwithstanding subdivisions (c) and (d) of this section, if a person serving on the common governing board chooses, prior to

June 1, 1973, to serve on the governing board of the community college district, he shall serve as a member of the community college district governing board until the expiration of the term of the office to which he was last elected as a member of that board.

SEC. 4. Section 72250 of the Education Code, as added by Section 1.5 of Chapter 565 of the Statutes of 1983, is amended and renumbered to read:

72250.5. The governing board of a community college district may impose a fee, not to exceed one dollar ($1), for the actual pro rata cost for services relative to a program change consisting of adding one or more courses any time after two weeks from the commencement of instruction in any term. Such fee shall not be charged for changes initiated or required by the community college.

SEC 5. Section 72403 is added to the Education Code, to read:

72403. The governing board of each community college district shall annually at its initial meeting select one of its members to serve as its representative for purposes of Article 1 (commencing with Section 4000) of Chapter 1 of Part 3 The representative selected pursuant to this section shall have one vote for each member to be elected to the county committee pursuant to Article 1 (commencing with Section 4000) of Chapter 1 of Part 3.

SEC. 6. Section 72425 of the Education Code is amended to read:

72425. (a) In any community college district in which the average daily attendance exceeds 60,000, and which is not located in a city and county, or in any community college district in which the average daily attendance exceeded 60,000 in the 1963–64 school year and was less than 60,000 in the 1972–73 school year or any subsequent school year, and which is not located in a city and county, the governing board may prescribe, as compensation for the services of each member of the board, the sum of seventy-five dollars ($75) for each meeting of the board actually attended, not to exceed seven hundred fifty dollars ($750) in any month. In any community college district in which the average daily attendance for the school year 1972–1973 was less than 60,000, except a district which also comes within the terms of the preceding sentence, but more than 25,000, each member of the governing board of the district may receive as compensation for his or her services not to exceed forty dollars ($40) for each meeting of the board actually attended, not to exceed three hundred dollars ($300) in any month. In any community college district in which the average daily attendance for the school year 1972–1973 was 25,000 or less but more than 10,000, each member of the governing board of the district may receive as compensation for his or her services not to exceed thirty dollars ($30) for each meeting of the board actually attended, but not to exceed two hundred dollars ($200) in any month In any community college district in which the average daily attendance for the school year 1972–1973 was 10,000 or less but more than 1,000, each member of the governing board of the district may receive as compensation for his or her services not to exceed twenty dollars ($20) for each meeting of the board actually

attended, not to exceed one hundred twenty dollars ($120) in any month. In any community college district in which the average daily attendance for the 1972–1973 school year was 1,000 or less but more than 150, each member of the governing board of the district may receive as compensation for his or her services not to exceed ten dollars ($10) for each meeting of the board actually attended, but not to exceed sixty dollars ($60) in any month.

(b) The compensation of members of the governing board of a community college district newly organized or reorganized after June 30, 1973, shall be governed by subdivision (a). For such purposes the total average daily attendance in all of the community colleges of the district in the school year in which the organization or reorganization became effective pursuant to Section 4062 shall be deemed to be the average daily attendance in the district for the school year 1972–73.

(c) A member may be paid for any meeting when absent if the board by resolution duly adopted and spread upon its minutes finds that at the time of the meeting he or she is performing services outside the meeting for the community college district. The compensation shall be a charge against the funds of the district.

(d) Notwithstanding any provision of law to the contrary, any member of the governing board of a community college district who is also a member of, and entitled to receive benefits from, any public retirement or pension system administered by the Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System may elect to forego any compensation provided by subdivisions (a), (b), or (c) and, if the compensation is foregone, the member shall not have his or her retirement benefits reduced and shall not be required to be reinstated in his or her retirement system.

SEC. 7. Section 74104 of the Education Code is amended to read:

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 adult population 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.

SEC. 8. Section 74230 of the Education Code is amended to read:

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, such as a change that results in the reapportionment of trustee areas or a change in the number of trustee areas, 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.

SEC. 9. Section 74231 of the Education Code is repealed.

SEC. 10. Section 74260 of the Education Code is repealed.

SEC. 11. Section 74261 of the Education Code is repealed.

SEC. 12. 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 60 miles from the nearest public community college measured by the usual vehicular route between the student's home and the college, 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 60 miles from the nearest community college, 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. 13. Article 2.5 (commencing with Section 84735) is added to Chapter 5 of Part 50 of the Education Code, to read:

Article 2.5. Fiscal Year 1983–84 Funding

84735. It is the intent of the Legislature that the Chancellor of the California Community Colleges allocate funds to the lowest revenue community college districts to raise their revenues per average daily attendance to the statewide average, insofar as possible with the funds provided.

SEC. 14. Section 84890 of the Education Code is amended to read:

84890. (a) 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.

(b) A community college district may designate an amount of time in each fiscal year for employees to conduct staff, student, and instructional improvement activities as specified in Section 84891. These activities may be conducted at any time during the fiscal year. The time designated for these activities shall be known as flexible time.

A community college district may designate as flexible time for an employee not more than 8.57 percent of that employee's contractual obligation for hours of classroom instruction which are eligible for state apportionments in that academic year, exclusive of any intersessions.

SEC. 15. Section 84891 of the Education Code is amended to read:

84891. All employees under contract for the academic year with a community college district operating under an approved flexible calendar, pursuant to Sections 84890 and 84892, shall be accountable pursuant to Section 84893, and as determined by the district, for the 175 workday academic year. The activities of all college personnel during the designated staff, student, and instructional improvement days are to include, but need not be limited to, the following:

(a) Course instruction and evaluation.

(b) Staff development, in-service training and instructional improvement.

(c) Program and course curriculum or learning resource development and evaluation.

(d) Student personnel services.

(e) Learning resource services.

(f) Related activities, such as student advising, guidance, orientation, and matriculation services.

(g) Departmental or division meetings, conferences and workshops, and institutional research.

(h) Other duties as assigned by the district.

(i) The necessary supporting activities for the above.

SEC. 16. Section 84895 of the Education Code is amended to read:

84895. The chancellor's office shall adjust the actual units of average daily attendance of a district operating under a plan approved in accordance with Sections 84893 and 84894 to reflect the conduct of staff, student, and instructional improvement activities in lieu of scheduled instruction during flexible time. The adjusted units of average daily attendance shall be computed by multiplying the actual units of average daily attendance in the academic year, exclusive of any intersessions, computed pursuant to Section 84500 by a factor which does not change the average daily attendance which would otherwise have been generated if the time for the improvement activities had not been permitted and scheduled instruction had instead taken place. This factor shall equal the sum of the following:

(a) 1.0.

(b) The total of all the actual hours of flexible time of all instructors pursuant to Section 84890 in the fiscal year, divided by the total of all the actual hours of classroom instruction of all instructors in the academic year, exclusive of any intersessions.

SEC. 17. Section 15820.11 is added to Article 3 (commencing with Section 15820.10) of Chapter 3.5 of Part 10b of Division 3 of Title 2 of the Government Code, as proposed by Senate Bill 1067 of the 1983–84 Regular Session, to read:

15820.11. (a) The Legislature authorizes the use of revenue bonds to finance the construction of the Food and Agricultural Sciences Building capital outlay project on the campus of the University of California at Davis.

(b) The amount of revenue bonds to be sold shall equal the cost of construction and any additional sums necessary to pay financing costs, including interest, during construction.

(c) Authorized construction costs shall be forty-two million three hundred ninety-seven thousand dollars ($42,397,000) based on the Engineering News Record Construction Cost Index 4400.

(d) Any augmentation of the approved project costs shall be subject to the provisions of Section 13332.11 of the Government Code.

SEC. 18. Item 6440-301-993 is added to the Budget Act of 1983 (Chapter 324, Statutes of 1983), to read:

6440-301-993—For capital outlay, University of California, payable from revenue bonds, authorized pursuant to the provisions of Senate Bill 1067 of the 1983–84 Regular Legislative Session $42,397,000

Schedule:

(a) Davis Campus:

(1) Construct Food and Agricultural Sciences Building $42,397,000

Provisions:

1. In addition to the cost of construction, the State Public Works Board may authorize any additional amounts necessary to pay the costs of financing, including interest, during construction of the project and the cost of issuance of permanent financing after completion of the project.
2. The State Public Works Board may authorize the augmentation of the cost of this project under the board's authority under the Government Code.
3. The cost of construction shall be based on the Engineering News Record Construction Cost Index 4400

SEC. 19. Sections 17 and 18 of this act shall not become operative unless Senate Bill 1067 of the 1983–84 Regular Session is enacted, on or before January 1, 1984, in which case Sections 17 and 18 shall become operative on the effective date of Senate Bill 1067.

SEC. 20. 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. 21. 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. 22. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to apply to the 1983–84 academic year, it is necessary for this act to take effect immediately.

CHAPTER 1096

An act to amend Sections 210 and 256 of, and to add Section 225.5 to, the Labor Code, relating to the payment of wages.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 210 of the Labor Code is amended to read:

210. In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who fails to pay the wages of each employee as provided in Sections 204, 204b, 204.1, 204.2, 205, 205.5, and 1197.5, shall be subject to a civil penalty as follows:

(a) For any initial violation, fifty dollars ($50) for each failure to pay each employee.

(b) For each subsequent violation, or any willful or intentional violation, one hundred dollars ($100) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties pursuant to this chapter or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and the attorneys thereof may proceed and act for and on behalf of the people in bringing these actions. All money recovered therein shall be paid into the State Treasury to the credit of the General Fund.

SEC. 2. Section 225.5 is added to the Labor Code, to read:

225.5. In addition to, and entirely independent and apart from, any other penalty provided in this article, every person who unlawfully withholds wages due any employee in violation of Section 212, 216, 221, 222, or 223 shall be subject to a civil penalty as follows:

(a) For any initial violation, fifty dollars ($50) for each failure to

pay each employee.

(b) For each subsequent violation, or any willful or intentional violation, one hundred dollars ($100) for each failure to pay each employee, plus 25 percent of the amount unlawfully withheld.

The penalty shall be recovered by the Labor Commissioner as part of a hearing held to recover unpaid wages and penalties or in an independent civil action. The action shall be brought in the name of the people of the State of California and the Labor Commissioner and attorneys thereof may proceed and act for and on behalf of the people in bringing the action. All money recovered therein shall be paid into the State Treasury to the credit of the General Fund.

SEC. 3. Section 256 of the Labor Code is amended to read:

256. The Labor Commissioner shall impose a civil penalty in an amount not exceeding 30 days pay as waiting time under the terms of Section 203.

CHAPTER 1097

An act to amend Sections 50740 and 51225 of, and to add Section 50738.5 to, the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 50738.5 is added to the Health and Safety Code, to read:

50738.5. (a) The department shall establish and administer an annuity fund and may make commitments to provide annuity payments from the fund directly to sponsors of rental housing developments which will receive construction or mortgage financing, or both, from the Farmers Home Administration to ensure affordable rents to eligible households.

(b) The department shall require annual reports on the use of annuity funds and such audits as may be required to ensure the proper use of moneys from the annuity fund. The department shall review all complaints received concerning those funds and shall have all powers necessary to assure the lawful application of those funds.

(c) Any rental housing development assisted pursuant to this section shall be governed by a regulatory agreement between the sponsor and the department. The regulatory agreement shall meet all of the requirements imposed by Section 50757.

SEC. 2. Section 50740 of the Health and Safety Code is amended to read.

50740. (a) The Rental Housing Construction Incentive Fund

established in the State Treasury is hereby renamed the Rental Housing Construction Fund. Notwithstanding Section 13340 of the Government Code, money in the fund is hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b), (c), and (d), shall be utilized for purposes of this chapter, including Section 50745.1, and for the purposes of Section 50775.5. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(b) Money from the fund utilized by the agency for development costs which was repaid to the agency or disencumbered between June 30, 1982, and June 30, 1983, and any additional funds or interest which is available for encumbrance on June 30, 1983, shall be deposited in a separate account in the fund and utilized as follows:

(1) Eight million one hundred thousand dollars ($8,100,000) shall be utilized by the agency for activities authorized by Article 4.5 (commencing with Section 51180) of Chapter 5 of Part 3.

(2) Five hundred thousand dollars ($500,000) shall be transferred by the agency to the department for deposit in the Rural Community Facility Grant Fund, established pursuant to Section 6125, and utilized to carry out the program established by Chapter 11 (commencing with Section 6120) of Part 3 of Division 5, if Assembly Bill 1604 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Three million dollars ($3,000,000) shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of Section 50661, if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(4) One million seven hundred thousand dollars ($1,700,000) shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized to carry out the program established by Chapter 11 (commencing with Section 50800), if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(5) Two million five hundred thousand dollars ($2,500,000) shall be transferred by the agency to the Trustees of the California State University for deposit in the Affordable Student Housing Revolving Fund, established pursuant to Section 90087 of the Education Code, and utilized to carry out the program established by Article 3

(commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code, if Assembly Bill 133 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(6) Three hundred thousand dollars ($300,000) shall be transferred by the agency to the department and utilized to carry out the program established by Chapter 3.6 (commencing with Section 50533), if Senate Bill 19 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(7) Four million two hundred thousand dollars ($4,200,000) shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes authorized by that section, if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(c) An amount not to exceed four million dollars ($4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in the separate account established pursuant to subdivision (b) and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for the purposes specified in paragraph (3) of subdivision (b) if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized for the purposes specified in paragraph (4) of subdivision (b) if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes specified in paragraph (7) of subdivision (b) if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(d) If any of the bills specified in paragraphs (2) to (7), inclusive, of subdivision (b), or subdivision (c), are not chaptered or do not become effective and operative on or before January 1, 1984, or the expenditure of funds for any of the purposes authorized by subdivisions (b) or (c) is otherwise reduced, the amount of funds allocated pursuant to those subdivisions shall be reallocated by the agency, between January 1, 1984, and January 14, 1984, among the remaining programs specified in subdivision (b) or (c), for which the

funds were not reduced, on a pro rata basis.

SEC. 3. Section 51225 of the Health and Safety Code, is amended to read:

51225. In selecting proposals for financing, the agency shall balance its activity between urban metropolitan, nonmetropolitan, and rural metropolitan areas of the state in general proportion to the needs identified in the California Statewide Housing Plan.

Insofar as feasible, the agency shall attempt to provide financing for housing specifically designed for occupancy by particular types of lower income households in general proportion to the proportionate need identified in the California Statewide Housing Plan and shall concentrate financing of construction and rehabilitation and financing for the sale of existing housing in areas of need as identified in the California Statewide Housing Plan or pursuant to regulations adopted pursuant to subdivision (g) of Section 50462.

The agency may also give priority consideration to, and reserve funds for use in connection with, large urban revitalization programs.

To facilitate the implementation of that portion of the agency's mandate to serve nonmetropolitan and rural metropolitan areas of the state in general proportion to the needs identified in the statewide housing plans, the agency shall, in nonmetropolitan and rural metropolitan areas, actively and aggressively pursue the development and financing of projects in communities of various sizes in general proportion to the communities' needs. The annual reports required of the agency pursuant to Section 51005 shall specifically enumerate the agency's progress towards meeting its mandate to serve nonmetropolitan and rural metropolitan areas, and shall assess any obstacles or problems which it has encountered in meeting this mandate, and suggest legislative and administrative solutions to overcome these obstacles or problems.

In enumerating its progress, the agency shall separately assess its progress in meeting the rehabilitation needs of rural areas and the new construction needs of rural areas, and separately assess its progress as to single and multifamily units. The agency shall include in its report an enumeration of its progress in meeting the housing needs of communities of various sizes in rural areas.

In order to facilitate implementation of local housing allocation plans, the agency may contract with a local public entity to reserve a portion of available credit and subsidy assistance for that area for one year. These contracts may be renewed annually by mutual agreement.

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 avoid the loss to California of millions of dollars in rural rent subsidies, it is necessary for this act to take effect immediately.

CHAPTER 1098

An act to amend Sections 1170.2, 1171, 1171.6, and 1172.4 of, and to add Sections 1170.3, 1172.6, and 1172.7 to, the Health and Safety Code, relating to special health care authority, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 1170.2 of the Health and Safety Code is amended to read:

1170.2. Unless the context otherwise requires, the provisions of this chapter govern the construction of this part. As used in this part:

(a) "Authority" means the Monterey County Special Health Care Authority.

(b) "Board" means the Monterey County Special Health Care Authority Board.

(c) "County" means the County of Monterey.

(d) "Health care system" means any system established to arrange for the provision of medical services.

(e) "Public agency" means the United States, the State of California, any political subdivision, county, municipality, district, or agency of the State of California or of the United States and any department, bureau or commission of the State of California or of the United States.

(f) "Person" means any individual, firm, partnership, association, corporation, trust, business trust, or the receiver or trustee or conservator for any of the above, but does not include a public agency.

(g) "The professional advisory board" means that advisory board to the authority's board composed of nine health and medical care professionals appointed by the Monterey County Board of Supervisors, five of whom shall be nominated by the Monterey County Medical Society, with at least one to be a member of the Monterey County Chapter of the American Academy of Family Practice, one of whom shall be nominated by Natividad Medical Center, one of whom shall be nominated by the Monterey County Hospital Administrators' Association, and two of whom shall be nominated by other organizations in the County of Monterey representing other professional health care providers.

(h) "The community advisory board" means that advisory board to the authority's board appointed by the Monterey County Board of Supervisors which is comprised of 15 persons who represent community and consumer interests and who do not directly earn their income from the provision of medical or health services.

(i) For the purposes of this part, the term "medical services or

medical benefits" does not include dental care or dental benefits.

(j) For the purposes of this part, the term "health care" does not include dental care.

SEC. 2. Section 1170.3 is added to the Health and Safety Code, to read:

1170.3. Notwithstanding any other provision of law, the board of directors of the authority, members of its community advisory board, members of its professional advisory board, and members of committees of those boards, shall be deemed members of a peer review committee within the meaning of Section 43.7 of the Civil Code.

SEC. 3. Section 1171 of the Health and Safety Code is amended to read:

1171. The government of the authority shall be vested in a board of directors which shall consist of nine members, selected as follows:

(a) Five members, one from each supervisorial district, shall be appointed by the Monterey County Board of Supervisors.

(b) One member, who shall be a current member of the professional advisory board, shall be nominated by the authority's professional advisory board and confirmed by the Monterey County Board of Supervisors and serve a one-year term.

(c) One member, who shall be a current member of the community advisory board, shall be nominated by the authority's community advisory board and confirmed by the Monterey County Board of Supervisors and serve a one-year term.

(d) Two members, both of whom shall be residents of Monterey County, shall be appointed by the Governor. The Governor shall make the appointments from a list containing at least three nominations by the Monterey County Board of Supervisors.

SEC. 4. Section 1171.6 of the Health and Safety Code is amended to read:

1171.6. The bodies which originally nominated or appointed a member whose term has expired shall nominate or appoint the successor for a full term of four years, except as to those members who are nominated by the professional advisory board or by the community advisory board who shall serve a one-year term.

SEC. 5. Section 1172.4 of the Health and Safety Code is amended to read:

1172.4. The Board of Supervisors of the County of Monterey may by ordinance or resolution order the dissolution of the authority by declaring that there is no need for the authority to function in the county. The dissolution shall become effective 180 days after the date of adoption of the resolution or ordinance ordering such dissolution.

Upon and after the effective date of the dissolution of the authority, the authority shall be dissolved, disincorporated and extinguished, its existence shall be terminated and all of its corporate powers shall cease, except for winding up the affairs of the authority.

For the purpose of winding up the affairs of the dissolved authority, the County of Monterey shall be the successor.

Upon the effective date of dissolution, control over all of the moneys or funds, including on hand and moneys due, but uncollected, and all property, real or personal, of the authority shall be vested in the County of Monterey for the purpose of winding up the affairs of the authority.

The powers of the county in winding up the affairs of the authority and the distribution of assets of the authority, shall be in accordance with the provisions of Article IV (commencing with Section 56500) of Chapter 9 of Part 4 of Division 1 of Title 6 of the Government Code.

The provisions of this part shall prevail over the provisions of the Government Code in case of any inconsistencies.

Monterey County shall remain a separate and distinct governmental agency separate and apart from the authority and shall have no liability for any debt, obligation or contract of any kind owed or incurred by the authority other than to wind up the affairs of the authority in accordance with the provisions of this section and solely with the assets of the authority.

SEC. 6. Section 1172.6 is added to the Health and Safety Code, to read:

1172.6. (a) The board may by ordinance or resolution provide that each director of the authority board be paid a sum not to exceed fifty dollars ($50) remuneration from authority funds, for each board or committee meeting attended, but not exceeding the sum of one hundred dollars ($100) per month, plus actual expenses incurred in attending board or committee meetings at such rates as are payable to officers and employees of the authority for their attendance at meetings within the scope of their employment.

(b) The board may by ordinance or resolution provide that each member of the professional advisory board be paid a sum not to exceed twenty-five dollars ($25) remuneration from authority funds, for each board or committee meeting attended, but not exceeding the sum of fifty dollars ($50) per month, plus his or her reasonable expenses for participating in authority business.

(c) The board may by ordinance or resolution provide that each member of the community advisory board be paid a sum not to exceed fifteen dollars ($15) remuneration from authority funds, for each board or committee meeting attended, but not exceeding the sum of thirty dollars ($30) per month, plus his or her reasonable expenses for participating in authority business.

(d) This section shall not apply to staff members of the authority.

SEC. 7. Section 1172.7 is added to the Health and Safety Code, to read:

1172.7. The board shall inform the Monterey County Board of Supervisors in writing of any amendment proposed by the authority to the Monterey County Special Health Care Authority Act prior to the authority requesting any legislative action on the amendment.

The board shall inform the Monterey County Board of Supervisors in writing of any change proposed by the authority to any state or

federal rule or regulation which may have fiscal impact on the program or an impact on the quality of medical services or medical benefits prior to the authority requesting any such change.

SEC. 8. Effective January 1, 1984, two vacancies shall exist on the Monterey County Special Health Care Authority Board as a result of the amendment of subdivisions (b) and (c) of Section 1171 of the Health and Safety Code by Section 3 of this act. Each vacancy shall be filled for the unexpired term by appointment as provided in subdivisions (b) and (c) of Section 1171 of the Health and Safety Code as amended by Section 3 of this act.

SEC. 9. Effective January 1, 1984, nine vacancies shall exist on the professional advisory board and 15 vacancies shall exist on the community advisory board as a result of the amendment of subdivisions (g) and (h) of Section 1170.2 of the Health and Safety Code by Section 1 of this act. Each vacancy shall be filled for the unexpired term by appointment as provided in subdivisions (g) and (h) of Section 1170.2 of the Health and Safety Code as amended by Section 1 of this act.

SEC. 10. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide for the orderly implementation of the special health care program at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1099

An act to amend Section 56363 of, and to add Sections 56000.5, 56137, and 56739 to, the Education Code, relating to special education.

[Approved by Governor September 26, 1983. Filed with Secretary of State September 27, 1983]

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

SECTION 1. Section 56000.5 is added to the Education Code, to read:

56000.5. The Legislature finds and declares that:

(a) Pupils with low-incidence disabilities, as a group, make up less than 1 percent of the total statewide enrollment for kindergarten through grade 12.

(b) Pupils with low-incidence disabilities require highly specialized services, equipment, and materials.

SEC. 2. Section 56137 is added to the Education Code, to read:

56137. The superintendent shall develop, update every other year, and disseminate directories of public and private agencies

providing services to pupils with low-incidence disabilities. The directories shall be made available as reference directories to parents, teachers, and administrators. The directories shall include, but need not be limited to, the following information:

(a) A description of each agency providing services and program options within each disability area.

(b) The specialized services and program options provided, including infant and preschool programs.

(c) The number of credentialed and certificated staff providing specialized services.

(d) The names, addresses, and telephone numbers of agency administrators or other individuals responsible for the programs.

SEC. 3. 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) These services may include, but are not limited to, the following:

(1) Language and speech development and remediation.

(2) Audiological services.

(3) Orientation and mobility instruction.

(4) Instruction in the home or hospital.

(5) Adapted physical education.

(6) Physical and occupational therapy.

(7) Vision services.

(8) Specialized driver training instruction.

(9) Counseling and guidance.

(10) Psychological services other than assessment and development of the individualized education program.

(11) Parent counseling and training.

(12) Health and nursing services.

(13) Social worker services.

(14) Specially designed vocational education and career development.

(15) Recreation services.

(16) Specialized services for low-incidence disabilities, such as readers, transcribers, and vision and hearing services.

SEC. 4. Section 56739 is added to the Education Code, to read:

56739. (a) When allocating funds received for special education pursuant to this article, it is the intent of the Legislature that, to the

extent funding is available, school districts and county offices shall give first priority to expenditures to provide specialized books, materials, and equipment which are necessary and appropriate for the individualized education programs of pupils with low-incidence disabilities, up to a maximum of five hundred dollars ($500) per pupil with low-incidence disability. Nothing in this subdivision shall be construed to prohibit pooling the prioritized funds to purchase equipment to be shared by several pupils.

(b) Equipment purchased pursuant to this section shall include, but not necessarily be limited to, nonprescriptive equipment, sensory aids, and other equipment and materials as appropriate.

CHAPTER 1100

An act to amend Sections 54402, 54404, 54431, 54435, 54461, and 54462 of, to amend and renumber the heading of Article 3 (commencing with Section 54461) of Chapter 2 of Division 20 of, to add Sections 54404.1, 54404.2, 54404.3, 54404.4, 54404.5, and 54463 to, to add Article 3 (commencing with Section 54441) to Chapter 2 of Division 20 of, and to repeal Sections 54403 and 54433 of, the Food and Agricultural Code, relating to agricultural commodities.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 54402 of the Food and Agricultural Code is amended to read:

54402. It is the public policy of the state to establish and support the right of any farmer to join voluntarily, belong to and freely participate in cooperative bargaining associations. Interference with producer rights set forth in this chapter, including the obligation of processors to negotiate and bargain with cooperative bargaining associations, is an unfair trade practice.

SEC. 2. Section 54403 of the Food and Agricultural Code is repealed.

SEC. 3. Section 54404 of the Food and Agricultural Code is amended to read:

54404. For the purpose of enforcing this chapter, the director may receive complaints from producers against any processor, handler, distributor, or any agent of these persons, or from processors, handlers, distributors, or any agent of these persons against a cooperative bargaining association or any agent of an association, with respect to violations of the unfair trade practices which are specified in Section 54431.

Upon verification of the complaint, the director shall, or upon the director's own motion may, make any and all necessary

investigations, examinations, or inspections of any transaction which involves a suspected violation of any provision of this chapter.

The director may thereafter take action against the processor, handler, distributor, or any agent of these persons, or the cooperative bargaining association or any agent of an association, in accordance with applicable provisions of this chapter.

SEC. 4. Section 54404.1 is added to the Food and Agricultural Code, to read:

54404.1. If, upon the investigation conducted under Section 54404, the director has reasonable cause to believe that the person charged has violated Section 54431, the director shall issue and cause to be served upon the person so charged a complaint stating the charges. The complaint shall summon the named person to a hearing before the director, which he or she shall call at a specific time and place.

SEC. 5. Section 54404.2 is added to the Food and Agricultural Code, to read:

54404.2. At the hearing called pursuant to Section 54404.1, the director may do all the following:

(a) Administer oaths and take testimony.

(b) Issue subpoenas requiring the attendance of witnesses before him or her, together with any books, memoranda, papers, and other documents, articles, or instruments that may be pertinent to the controversy as set forth in the complaint.

(c) Compel the disclosure by the witnesses of all facts known to them that relate to the controversy.

SEC. 6. Section 54404.3 is added to the Food and Agricultural Code, to read:

54404.3. The procedure for holding the hearing pursuant to Section 54404.2 is identical to hearings held pursuant to Article 13 (commencing with Section 55781) of Chapter 6.

SEC. 7. Section 54404.4 is added to the Food and Agricultural Code, to read:

54404.4. At the conclusion of the hearing called pursuant to Section 54404.1, the director shall enter in his or her office in Sacramento an order which dismisses the complaint, unless the director is satisfied that the person against whom the complaint was filed has violated Section 54431.

SEC. 8. Section 54404.5 is added to the Food and Agricultural Code, to read:

54404.5. (a) Notwithstanding Section 54404.1, if the director receives a verified complaint that a processor, handler, distributor, or any agent of any such person or a cooperative bargaining association or any agent of an association has violated subdivision (e) of Section 54431, the director shall conduct a hearing within 14 days of receiving the complaint. The director shall issue a notice of the hearing not less than five days prior to the commencement of the hearing. The director may, but is not required to, make any investigation in addition to the hearing. The director shall announce

his or her decision on the complaint within five days after the conclusion of the hearing and may take any action that is authorized by this section.

(b) If the director determines that the person against whom the complaint was filed has violated subdivision (e) of Section 54431, the director may issue an order fashioned in a manner so as to expeditiously require that person to comply with the requirements of this chapter. If the person thereafter disobeys the order, the director, represented by the Attorney General, shall apply to the Superior Court of the County of Sacramento in order to obtain a court order requiring the person to obey the order of the director. The action shall be handled in an expeditious manner by the court and given calendar preference.

(c) The costs of the hearing held pursuant to subdivision (a) shall be assessed by the director and paid for by the party filing the complaint if the hearing results in a finding that no violation occurred. The costs of the hearing shall be paid for by the party against whom the complaint was filed if the hearing results in a finding that a violation had occurred.

(d) The hearing held pursuant to subdivision (a) shall be held in as expeditious a manner as possible under Sections 54404.2 and 54404.3. The hearing officer shall use his or her best efforts to ensure that the hearing will be conducted as quickly as possible consistent with the requirements of due process and this chapter.

(e) The record from the hearing held pursuant to subdivision (a) may be introduced by either party to that hearing at a hearing held pursuant to Section 54404.1.

SEC. 9. Section 54431 of the Food and Agricultural Code is amended to read:

54431. It is an unfair trade practice, and unlawful, for any processor, handler, distributor, or agent of any such person, or, with regard to subdivisions (d), (e), and (f), for any cooperative bargaining association or any agent of an association, or for any other person to do any of the following:

(a) Interfere with, restrain, coerce, or boycott producers in the exercise of the rights which are guaranteed pursuant to Section 54402.

(b) Discriminate against any producer with respect to price or other terms of purchase of any raw agricultural commodity, by reason of the producer's membership in, or contract with, any cooperative bargaining association.

(c) Pay or loan money, or give any other thing of value, to a producer as an inducement or reward for refusing or ceasing to belong to, or for breaching one's membership agreement in, a cooperative bargaining association.

(d) Maliciously or knowingly give false reports about the finances, management, or activities of any person subject to this chapter.

(e) Refuse to negotiate or bargain at reasonable times and for reasonable periods of time with a genuine desire to reach agreement

and a serious attempt to resolve differences with a cooperative bargaining association for price, terms of sale, compensation for commodities produced under contract, and other contract provisions relative to any commodity which a cooperative bargaining association represents, or refuse to negotiate or bargain at reasonable times and for reasonable periods of time with a genuine desire to reach agreement and a serious attempt to resolve differences with a processor for price, terms of sale, compensation for commodities produced under contract, and other contract provisions relative to any commodity which the cooperative bargaining association represents. This subdivision does not apply to fresh grapes purchased for wine. Also, this subdivision is limited to processors, handlers, or agents of any of those persons who deal in fruits, nuts, or vegetables for processing and a cooperative bargaining association which meets all of the following:

(1) That, under the articles of incorporation or bylaws of the cooperative bargaining association, the association is producer owned and controlled exclusively by producers.

(2) The cooperative bargaining association has enforceable contracts with its members.

(3) The cooperative bargaining association has financial resources and management reasonably sufficient to accomplish the purpose for which it was organized.

(4) The cooperative bargaining association represents, through its own members, a sufficient number of producers or a sufficient quantity of any particular commodity, or both, to make it an effective agent for producers in bargaining with handlers.

(5) One of the functions of the cooperative bargaining association is acting as principal or agent for its producer members to negotiate or bargain with handlers for prices, terms of sale, compensation for commodities produced under contract and other terms of contracts with respect to the production, sale, and marketing of their commodities.

(f) Refuse to negotiate or bargain for price, terms of sale, compensation for commodities produced under contract, and other contract provisions relative to any commodity which a cooperative bargaining association represents. This subdivision only applies to a cooperative association whose members produce either fresh grapes purchased for wine or whose members produce any other commodity not specified in subdivision (e) and which meets all of the following:

(1) Under the articles of incorporation or bylaws of the cooperative bargaining association, the association is producer owned and controlled exclusively by producers.

(2) The cooperative bargaining association has enforceable contracts with its members.

(3) The cooperative bargaining association has financial resources and management reasonably sufficient to accomplish the purpose for which it was organized.

(4) The cooperative bargaining association represents, through its own members, a sufficient number of producers or a sufficient quantity of any particular commodity, or both, to make it an effective agent for producers in bargaining with handlers.

(5) One of the functions of the cooperative bargaining association is acting as principal or agent for its producer members to negotiate or bargain with handlers for prices, terms of sale, compensation for commodities produced under contract, and other terms of contracts with respect to the production, sale, and marketing of their commodity.

SEC. 10. Section 54433 of the Food and Agricultural Code is repealed.

SEC. 10.5. Section 54435 of the Food and Agricultural Code is amended to read:

54435. Nothing in subdivision (e) or (f) of Section 54431 requires any processor. handler, distributor, or agent of any such person, to negotiate over any specific period of time, or to agree upon price, terms of sale, compensation for commodities produced under contract, and other contract provisions relative to any commodity which any cooperative bargaining association represents. However, nothing in this section relieves the parties from the requirement to negotiate and bargain pursuant to subdivision (e) or (f) of Section 54431.

SEC. 11. Article 3 (commencing with Section 54441) is added to Chapter 2 of Division 20 of the Food and Agricultural Code, to read:

Article 3. Annual Report

54441. The director shall prepare and submit an annual report to the Legislature on or before January 1 of each year regarding the operation of this chapter.

54442. To aid in preparation of the report required under this chapter, the director shall establish an advisory committee consisting of the following persons:

(a) Six representatives of cooperative bargaining associations from names submitted by cooperative bargaining associations, two of whom shall be appointed by the Governor, two of whom shall be appointed by the Speaker of the Assembly, and two of whom shall be appointed by the Senate Committee on Rules.

(b) Six representatives of processors from names submitted by processors, two of whom shall be appointed by the Governor, two of whom shall be appointed by the Speaker of the Assembly, and two of whom shall be appointed by the Senate Committee on Rules.

54443. The advisory committee shall study and report on all of the following issues:

(a) Unfair trade practices.

(b) Licensing.

(c) Funding.

(d) Investigation and hearing procedures.

(e) The need for a mechanism to resolve bargaining disputes.

(f) Any other issues relating to this chapter.

(g) Any recommended changes to this chapter.

54444. The advisory committee shall meet not less than twice annually.

54445. The advisory committee shall prepare and transmit a report to the director at a time fixed by the director so as to meet his or her obligations under this article.

54446. (a) The advisory committee shall, on or before January 1, 1987, prepare and submit a report to the director who, in turn, shall report to the Legislature on the effectiveness of subdivisions (a) and (e) of Section 54431 in successfully aiding the bargaining process between processors and cooperative bargaining associations. The director shall include any recommended changes to subdivisions (a) and (e) of Section 54431 as part of the report.

(b) After receiving the report, the Assembly Committee on Agriculture and the Senate Committee on Agriculture and Water may hold hearings on the report.

(c) The report shall, among other things, focus on any specific abuses of subdivisions (a) and (e) of Section 54431.

(d) Annual progress reports on the report shall be submitted by the advisory committee to the director.

SEC. 12. The heading of Article 3 (commencing with Section 54461) of Chapter 2 of Division 20 of the Food and Agricultural Code is amended and renumbered to read:

Article 4. Penalties

SEC. 13. Section 54461 of the Food and Agricultural Code is amended to read:

54461. The willful violation of any provision of this chapter is a misdemeanor punishable by a fine of not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each and every violation.

SEC. 14. Section 54462 of the Food and Agricultural Code is amended to read:

54462. In addition to the penalty which is provided by Section 54461, any person that violates any provision of this chapter is liable civilly for a penalty in an amount not to exceed a sum of five thousand dollars ($5,000) for each and every violation.

SEC. 15. Section 54463 is added to the Food and Agricultural Code, to read:

54463. In addition to any other remedies provided under this article, the director may seek to obtain injunctive relief in the proper court to require any person subject to this chapter to comply with any applicable requirement in this chapter.

SEC. 16. 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 6029.5 and 7106.5 to the Penal Code, relating to correctional facilities, and making an appropriation therefor.

[Approved by Governor September 26, 1983 Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 6029.5 is added to the Penal Code, to read:

6029.5. The Board of Corrections is authorized to expend money from the County Jail Capital Expenditure Fund, created pursuant to Sections 4412 and 6029.1, on joint use correctional facilities housing county and state or federal prisoners or any combination thereof in proportion to the county benefit.

SEC. 2. Section 7106.5 is added to the Penal Code, to read:

7106.5. The moneys in the fund may be used for construction of joint use correctional facilities housing county and state or federal prisoners or any combination thereof in proportion to the state benefit.

CHAPTER 1102

An act to amend Sections 75, 75.4, 75.5, 75.11, 75.12, 75.20, 75.21, 75.22, 75.30, 75.31, 75.40, 75.41, 75.42, 75.54, 75.55, 75.70, 75.80, 97, 6006, 6010, 7651, 7652, 7655, 7657, 7661, 7674, 7675, 7705, 7706, 8128, 8130, 8751, 8752, 8777, 8782, 8803, 8877, 9152, 9155, 17024.5, 17042.5, 17053.7, 17063.2, 17220, 17274, 18173, 18586.7, 18681.1, 18802.7, 18881, 19062.11, 19401, 19406, 19414, 23051.5, 24330, 24483.5, 24514, 24562, 24603, and 26161 of, and to add Sections 75.9, 75.14, 217.1, and 17556 to, to add Article 2.5 (commencing with Section 75.18) and Article 6.5 (commencing with Section 75.60) to Chapter 3.5 of Part 0.5 of Division 1 of, Article 1.1 (commencing with Section 7659) to Chapter 5 of Part 2 of Division 2 of, and Article 1.1 (commencing with Section 8756) to Chapter 4 of Part 3 of Division 2 of, and to repeal Section 75.23 of, the Revenue and Taxation Code, to amend Section 2103 of the Streets and Highways Code, and to amend Sections 650, 1703, 1852, and 13057 of, and to add Section 1855 to, the Unemployment Insurance Code, relating to taxation, making an appropriation

therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1983. Filed with Secretary of State September 27, 1983.]

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

SECTION 1. Section 75 of the Revenue and Taxation Code is amended to read:

75. It is the intent of the Legislature in enacting this chapter to fully implement Article XIII A of the California Constitution and to promote increased equity among taxpayers by enrolling and making adjustments of taxes resulting from changes in assessed value due to changes in ownership and completion of new construction at the time they occur. The Legislature finds and declares that under the law in effect prior to the enactment of this chapter, recognition of these increases is delayed from four to sixteen months, which results in an unwarranted reduction of taxes for some taxpayers with a proportionate and inequitable shift of the tax burden to other taxpayers.

SEC. 1.5. Section 75.4 of the Revenue and Taxation Code is amended to read:

75.4. "Current tax rate" means the tax rate applicable to the current roll, including any rate in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution.

SEC. 2. Section 75.5 of the Revenue and Taxation Code is amended to read:

75.5. "Property" means and includes real property, other than fixtures, which are normally valued as a separate appraisal unit from a structure and mobilehomes subject to taxation under Part 13 (commencing with Section 5800).

SEC. 2.5. Section 75.9 is added to the Revenue and Taxation Code, to read:

75.9. "Taxable value" means and includes the base year full value adjusted for any given lien date as required by law or the full cash value for the same date, whichever is less.

SEC. 3. Section 75.11 of the Revenue and Taxation Code is amended to read:

75.11. (a) If the change in ownership occurs or the new construction is completed on or after March 1 but on or before May 31, then there shall be two supplemental assessments placed on the supplemental roll. The first supplemental assessment shall be the difference between the new base year value and the taxable value on the current roll. The second supplemental assessment shall be the difference between the new base year value and the taxable value to be enrolled on the roll being prepared.

(b) If the change in ownership occurs or the new construction is

completed on or after June 1 but before the succeeding March 1, then the supplemental assessment placed on the supplemental roll shall be the difference between the new base year value and the taxable value on the current roll.

(c) If there are multiple change in ownership occurrences of, or new construction completions to, the same real property, or both, during the same assessment year, then there shall be a net supplemental assessment placed on the supplemental roll, in addition to the assessment pursuant to subdivision (a) or (b). The net supplemental assessment shall be the most recent new base year value less the sum of (1) the previous entry or entries placed on the supplemental roll computed pursuant to subdivision (a) or (b), and (2) the corresponding taxable value on the current roll or the taxable value to be entered on the roll being prepared, or both, depending on the date or dates the change of ownership occurs or new construction is completed as specified in subdivisions (a) and (b).

SEC. 4. Section 75.12 of the Revenue and Taxation Code is amended to read:

75.12. (a) (1) Any real property on which new construction is completed shall not be added to the supplemental roll pursuant to this article until the date that property, in whole or in part, is the subject of any of the following:

(A) Changes ownership.

(B) Is rented or leased.

(C) Is occupied or otherwise used by the owner or with the owner's consent, except a model home or other use which is incidental to an offer for a change of ownership, whichever comes first.

(2) This section applies only if the owner notifies the assessor in writing prior to the commencement of construction that he or she offers or intends to offer that property for sale or other change of ownership, and does not intend to rent, lease, occupy or otherwise use that property, except model homes or other use as is incidental to an offer for a change of ownership, and the owner requests the application of this section. For purposes of orderly implementation of this paragraph, the notice to the assessor shall be made within 45 days of July 29, 1983, as to real property under construction between July 1, 1983, and the date of the notice.

(3) Nothing in this section shall preclude the reassessment of any such property on the assessment roll for the March 1 following the date of completion.

(b) The owner of any real property who makes a request of the assessor pursuant to subdivision (a) shall notify the assessor within 45 days of the earliest date that any of the following occur:

(1) The property changes ownership subject to an unrecorded contract of sale.

(2) The property is rented or leased.

(3) The property is occupied and the occupancy of the property is other than as a model home or incidental to an offer for a change

of ownership.

If the owner fails to provide the assessor with such notice within 45 days of the earliest date specified in paragraph (1), (2), or (3), then a penalty of the amount specified in Section 482 shall be applied, regardless of whether the assessor has made a request for that notice. The procedures provided in Section 482 for collection of the penalty and in Section 483 for the abatement of penalties shall be applicable for the failure of the owner to provide the assessor with timely notice.

SEC. 5. Section 75.14 is added to the Revenue and Taxation Code, to read:

75.14. A supplemental assessment pursuant to this chapter shall not be made for any property not subject to the assessment limitations of Article XIII A of the California Constitution. All property subject to the assessment limitations of Article XIII A of the California Constitution shall be subject to the provisions of this chapter, except as otherwise provided in this article.

SEC. 5.5. Article 2.5 (commencing with Section 75.18) is added to Chapter 3.5 of Part 0.5 of Division 1 of the Revenue and Taxation Code, to read:

Article 2.5. Application of Inflation Rate

75.18. On and after July 1, 1983, if the actual date of the most recent change in ownership or completion of new construction entered on the supplemental roll occurs between March 1, and June 30, then the new base year value shall be adjusted on the March 1 following the change in ownership or completion of new construction by the inflation factor, which shall be the percentage change in the cost of living, as defined in Section 2212, provided that any increases shall not exceed 2 percent of the new base year value.

SEC. 6. Section 75.20 of the Revenue and Taxation Code is amended to read:

75.20. A supplemental assessment pursuant to this chapter shall not affect an exemption which had been granted the property for either the current roll or the roll being prepared.

SEC. 7. Section 75.21 of the Revenue and Taxation Code is amended to read:

75.21. (a) Exemptions shall be applied to the amount of the supplemental assessment, provided that the property is not receiving any other exemption on either the current roll or the roll being prepared except as provided for in subdivision (b), and the assessee is eligible for and makes a timely claim for the exemption.

(b) If the property received an exemption on the current roll or the roll being prepared and the assessee on the supplemental roll is eligible for and makes a timely claim for an exemption of a greater amount, then the difference in the amount between the two exemptions shall be applied to the supplemental assessment.

(c) Any person claiming to be eligible for an exemption to be applied against the amount of the supplemental assessment shall file

a claim, in such form as prescribed by the board, on or before the 30th day following the date of notice of the supplemental assessment.

SEC. 8. Section 75.22 of the Revenue and Taxation Code is amended to read:

75.22. A property shall be eligible for exemption from the supplemental assessment if the person claiming the exemption meets the qualifications for the exemption established by this part no later than 90 days of the date of the change in ownership or the completion of new construction.

SEC. 9. Section 75.23 of the Revenue and Taxation Code is repealed:

SEC. 10. Section 75.30 of the Revenue and Taxation Code is amended to read:

75.30. Whenever the assessor determines that a change in ownership or the completion of new construction has occurred, the assessor shall place a notice of the pending supplemental billing on the roll being prepared and shall notify the auditor, who shall place a notation on the current roll or on a separate document accompanying the current roll that a supplemental billing may be forthcoming.

SEC. 11. Section 75.31 of the Revenue and Taxation Code is amended to read:

75.31. (a) Whenever the assessor has determined a new base year value as provided in Section 75.10, the assessor shall send a notice to the assessee showing the following:

(1) The new base year value of the property which has changed ownership, or the new base year value of the completed new construction which shall be added to the existing base year value of the remainder of the property.

(2) The taxable value appearing on the current roll, and if the change in ownership or completion of new construction occurred between March 1 and May 31, the taxable value on the roll being prepared.

(3) The date of the change in ownership or completion of new construction.

(4) The amount of the supplemental assessments.

(5) The exempt amount, if any on the current roll or the roll being prepared.

(6) The date the notice was mailed.

(7) A statement that the supplemental assessment was determined in accordance with Article XIII A of the California Constitution which generally requires reappraisal of property whenever a change in ownership occurs or property is newly constructed.

(8) Any other information which the board may prescribe.

(b) In addition to the information specified in subdivision (a), the notice shall inform the assessee of the procedure for filing a claim for exemption which is to be filed within 30 days of the date of the notice.

(c) The notice shall advise the assessee of the right to appeal the

supplemental assessment, and that the appeal must be received within 60 days of the date of the notice. For the purposes of equalization proceedings, the supplemental assessment shall be considered an assessment made outside of the regular assessment period as provided in Section 1605, except that the application shall be filed within 60 days of notice.

(d) The notice shall advise the assessee that if the supplemental assessment is a negative amount the auditor shall make a refund of a portion of taxes paid on assessments made on the current roll, or the roll being prepared, or both.

(e) The notice shall be furnished by the assessor to the assessee by regular United States mail directed to the assessee at the assessee's latest address known to the assessor.

SEC. 12. Section 75.40 of the Revenue and Taxation Code is amended to read:

75.40. When the period for claiming exemption has expired, and any exemptions have been processed, the assessor shall transmit the supplemental assessment to the auditor including the following information:

(a) Name and address, if known, of the assessee.

(b) The parcel number or legal description of the property.

(c) The tax rate area in which the property is located.

(d) The new base year value of the property with the value for the land separated from the value for improvements.

(e) The value of the property on the current roll, or the roll being prepared or both.

(f) The exemption applicable, if any.

(g) The net assessment after exemption.

(h) The actual amount of the supplemental assessment or assessments.

(i) The date of the change of ownership or completion of new construction.

SEC. 13. Section 75.41 of the Revenue and Taxation Code is amended to read:

75.41. (a) The auditor shall apply the current year's tax rate to the supplemental assessment, computing the amount of taxes that would be due for a full year. For property on the secured roll, if the tax bill is delinquent on or before January 1, the taxes due shall be computed in two equal installments.

(b) The taxes due shall be adjusted by a proration factor to reflect the portion of the tax year remaining as determined by the date on which the change in ownership occurred or the new construction was completed. In computing the portion of the tax year remaining, the change in ownership or completion of new construction shall be presumed to have occurred on the first day of the month following the date on which change in ownership or completion of new construction occurred.

(c) (1) If the presumed date specified in subdivision (b) is April 1, the taxes on the supplemental assessment for the current roll shall

be multiplied by .25; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(2) If the presumed date specified in subdivision (b) is May 1, the taxes on the supplemental assessment for the current roll shall be multiplied by .17; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(3) If the presumed date specified in subdivision (b) is June 1, the taxes on the supplemental assessment for the current roll shall be multiplied by .08; and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(4) If the presumed date specified in subdivision (b) is July 1, no supplemental assessment shall be made on the current roll, and the taxes on the supplemental assessment for the roll being prepared shall be multiplied by 1.00.

(5) If the presumed date specified in subdivision (b) is on or after August 1, and on or before March 1, the following table of factors shall be used:

If the presumed date is:	The taxes on the supplemental assessment on the current roll shall be multiplied by:
August 1	.92
September 1	.83
October 1	.75
November 1	.67
December 1	.58
January 1	.50
February 1	.42
March 1	.33

(d) If the supplemental assessment is a negative amount, the auditor shall follow the procedures of this section to determine the amount of refund to which the assessee is entitled.

SEC. 14. Section 75.42 of the Revenue and Taxation Code is amended to read:

75.42. The information transmitted to the auditor by the assessor, together with the extended taxes due, or extension of the negative amount, shall be enrolled on the supplemental roll.

SEC. 15. Section 75.54 of the Revenue and Taxation Code is amended to read:

75.54. Taxes on the supplemental roll become a lien against the real property on the date of the change in ownership or completion of new construction. If there is another change in ownership before the supplemental billing is made, the supplemental assessment shall be entered on the supplemental unsecured roll in the name of the person who would have been the assessee if the additional changes in ownership had not occurred, and thereafter shall be treated and collected like other taxes on the unsecured roll.

SEC. 16. Section 75.55 of the Revenue and Taxation Code is

amended to read:

75.55. (a) If a refund is due the assessee, then the auditor shall make the refund within 90 days of the date of last payment of taxes due on the assessment made on the current roll and within 90 days of the date of last payment of taxes due on the assessment made on the roll being prepared if the change in ownership occurs or the new construction is completed on or after March 1, but on or before May 31. Refunds shall be made from taxes collected on assessments made on the supplemental roll.

(b) If the refund is not made as provided in subdivision (a), interest shall be paid at a rate provided by Section 5151.

SEC. 16.5. Article 6.5 (commencing with Section 75.60) is added to Chapter 3.5 of Part 0.5 of Division 1 of the Revenue and Taxation Code, to read:

Article 6.5. Reimbursement for County Costs

75.60. Notwithstanding any other provision of law, for the 1983–84 and 1984–85 fiscal years, the county board of supervisors may direct the county auditor to allocate to the county, prior to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of this part and prior to the allocation made pursuant to Section 75.70, an amount not to exceed 5 percent of the additional revenues generated by the increased assessments under this chapter. Those revenues shall be used solely for the purpose of administration of this chapter.

75.65. (a) There is hereby appropriated from the General Fund to the Supplemental Roll Administrative Cost Fund (hereafter referred to as "the fund"), which is hereby created, the sum of ten million dollars ($10,000,000).

(b) Money in the fund shall be allocated to counties to pay for the costs of administering this chapter in the 1983–84 fiscal year, where such costs are in excess of the amount of property tax revenue allocated for administrative costs pursuant to Section 75.60.

(c) The Controller shall allocate those funds upon certification by the board and the Department of Finance that the claim by the county for reimbursement of excess administrative cost is predicated on prudent administrative practice and does not incorporate expenses which are not essential to the administration of this chapter.

(d) Counties may submit claims for reimbursement for excess administrative costs of administering the provisions of this chapter to the board no later than January 15, 1984. The board shall review those claims and forward them with recommendations to the Department of Finance by March 1, 1984. If approved by the Department of Finance, the claim shall be submitted to the Controller for payment from the fund. The claim shall be paid no later than April 15, 1984.

(e) The Department of Finance shall develop guidelines for county claims pursuant to this article, which shall be developed in

consultation with the board and with representatives of county assessors, county auditors and county tax collectors. The guidelines shall be issued by December 1, 1983.

75.66. It is the intent of the Legislature that no further appropriation shall be made, other than that provided by Section 75.65, and no reimbursement is required by this chapter pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231, because the county has authority pursuant to Section 75.60 to allocate additional revenues generated pursuant to this chapter to pay for administrative costs mandated by this chapter.

SEC. 17. Section 75.70 of the Revenue and Taxation Code is amended to read:

75.70. (a) Notwithstanding any other provision of law, for the 1983–84 and the 1984–85 fiscal years, each county auditor shall allocate to all elementary, high school, and unified school districts within the county in proportion to each district's average daily attendance, as certified by the Superintendent of Public Instruction for purposes of the advance apportionment of state aid in the then current fiscal year, without respect to the allocation of property tax revenues pursuant to Chapter 6 (commencing with Section 95) of Part 0.5, an amount equal to the additional revenues generated by the rate levied pursuant to subdivision (a) of Section 1 of Article XIII A of the California Constitution applied to the increased assessments under this chapter. Additional revenues generated by a rate or rates levied in excess of the limitation prescribed by subdivision (a) of Section 1 of Article XIII A of the California Constitution shall be allocated to the fund for which the tax rate or rates were levied.

These allocations shall be made on a timely basis but no later than 10 working days after the close of the preceding accounting period.

(b) For purposes of the certification made by the Superintendent of Public Instruction pursuant to subdivision (a), the average daily attendance of the following districts shall be deemed to be zero:

(1) In the case of multicounty districts, the portions of the districts located other than in the county of control.

(2) Any district which received two thousand four hundred dollars ($2,400) or one hundred twenty dollars ($120) per average daily attendance, whichever is greater, in the prior fiscal year.

(c) The Superintendent of Public Instruction shall certify the appropriate counts of average daily attendance pursuant to subdivision (a) to each county auditor no later than July 15 of each applicable fiscal year.

(d) On or before April 15, the auditor of each county shall furnish to the Superintendent of Public Instruction the estimated amount of tax receipts pursuant to this section of each school district situated within his or her county.

SEC. 17.5. Section 75.80 of the Revenue and Taxation Code is amended to read:

75.80. This chapter shall apply to changes in ownership

occurring, and new construction completed, on or after July 1, 1983.

SEC. 18. Section 97 of the Revenue and Taxation Code is amended to read:

97. For the 1980–81 fiscal year and each fiscal year thereafter, property tax revenues shall be apportioned to each jurisdiction pursuant to this section and Section 97.5 by the county auditor, subject to allocation and payment of funds as provided for in subdivision (b) of Section 33670 of the Health and Safety Code, to each jurisdiction in the following manner:

(a) Except as provided in subdivision (b), for each tax rate area, each jurisdiction shall be allocated an amount of property tax revenue equal to the amount of property tax revenue allocated pursuant to this chapter to each jurisdiction in the prior fiscal year, modified by any adjustments required by Section 99.

(b) For each tax rate area, each special district shall be allocated an amount of property tax revenue equal to the amount of property tax revenue which would have been allocated pursuant to this chapter to such district in the prior fiscal year if no adjustment had been made pursuant to Section 98.6. This amount shall then be adjusted for the current year pursuant to Section 98.6.

(c) The difference between the total amount of property tax revenue and the amounts allocated pursuant to subdivision (a) shall be allocated pursuant to Section 98, and shall be known as the "annual tax increment".

(d) For purposes of this section, in the 1983–84 and 1984–85 fiscal years only, the amount of property tax revenue referred to in subdivision (a) shall not include amounts generated by the increased assessments under Chapter 3.5 (commencing with Section 75).

SEC. 18.1. Section 217.1 is added to the Revenue and Taxation Code, to read:

217.1. (a) Except as provided in subdivision (d), the following articles of personal property which have been made available for display in a publicly owned aerospace museum, or an aerospace museum which is regularly open to the public and which is operated by a nonprofit organization which has qualified for exemption pursuant to Section 23701d, shall be exempt from taxation:

(1) Aircraft which have been restored or maintained, whether currently certified or not for flight purposes.

(2) Aircraft donated in perpetuity to the aerospace museum.

(b) When making a claim for an exemption pursuant to this section, a person claiming the exemption shall give all information required and answer all questions in an affidavit, and shall subscribe and swear to the affidavit before, at the election of the claimant, either the assessor or a notary public. The assessor may require other proof of the facts stated before allowing the exemption. The affidavit shall be accompanied by a certificate of the director or other officer of the aerospace museum in which the property for which an exemption is claimed under this section was made available for display that the property was available for public display in the

aerospace museum for the period specified in subdivision (e).

(c) The provisions of Sections 255 and 260 shall be applicable to the exemption provided by this section.

(d) The exemption provided by subdivision (a) shall not apply to any aircraft loaned by any person who holds aircraft primarily for purposes of sale.

(e) The exemption provided by this section shall not apply unless the property was made available for public display in the aerospace museum for a period of 90 days during the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the property was first made available for public display less than 90 days prior to the lien date, the exemption may be granted if the person claiming the exemption certifies in writing that the property will be made available for public display for at least 90 days during the 12-month period commencing with the first day the property was made available for public display.

(f) For purposes of this section, "regularly open to the public" means that the aerospace museum was open to the public not less than 20 hours per week for not less than 35 weeks of the 12-month period immediately preceding the lien date for the year for which the exemption is claimed.

If the aerospace museum has been open for less than 35 weeks during the 12-month period immediately preceding the lien date or for less than 20 hours per week during that period, the exemption may be granted if the director or other officer of the aerospace museum certifies in writing that the aerospace museum will be open for not less than 20 hours per week for not less than 35 weeks during the 12-month period beginning with the date the aerospace museum was first opened.

(g) If a person certifies in writing that the property will be made available and the aerospace museum open for the periods specified in subdivisions (e) and (f), and the property is not so made available or the aerospace museum is not so opened, the exemption shall be canceled, and an escape assessment may be made as provided in Section 531.1.

SEC. 18.2. Section 6006 of the Revenue and Taxation Code, as amended by Chapter 323 of the Statutes of 1983, is amended to read:

6006. "Sale" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(d) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(e) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(f) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(g) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.

(7) Paragraphs (1) and (5) and Section 6094.1 shall not apply to rentals or leases of videocassettes, videotapes, and videodiscs for private use under which the lessee or renter does not obtain or acquire the right to license, broadcast, exhibit, or reproduce the videocassette, videotape, or videodisc.

SEC. 18.3. Section 6010 of the Revenue and Taxation Code, as amended by Chapter 323 of the Statutes of 1983, is amended to read:

6010. "Purchase" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) When performed outside this state or when the customer gives a resale certificate pursuant to Article 3 (commencing with

Section 6091) of Chapter 2 of this part, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Any lease of tangible personal property in any manner or by any means whatsoever, for consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or transferor has paid sales tax reimbursement or has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.

(7) Paragraphs (1) and (5) and Section 6094.1 shall not apply to rentals or leases of videocassettes, videotapes, and videodiscs for private use under which the lessee or renter does not obtain or acquire the right to license, broadcast, exhibit, or reproduce the videocassette, videotape, or videodisc.

SEC. 18.4. Section 7651 of the Revenue and Taxation Code, as amended by Chapter 323 of the Statutes of 1983, is amended to read:

7651. Each distributor shall prepare and file with the board on forms prescribed by the board a return showing the total number of gallons of motor vehicle fuel distributed by him within this state during each calendar month, or such monthly period ended during that calendar month as the board may authorize, the amount of license tax due for the month covered by the return, and such other information as the board deems necessary for the proper administration of this part. The distributor shall file the return on or

before the 25th day of the calendar month following the monthly period to which it relates, together with a remittance payable to the Controller for the amount of license tax due for that period less whatever amounts may have been paid theretofore for the same period because of returns and payments made on a weekly basis.

SEC. 18.5. Section 7652 of the Revenue and Taxation Code is amended to read:

7652. Each producer and broker shall file a return in such form as may be prescribed by the board for each calendar month. The return shall be filed with the board on or before the 25th day of the calendar month following the close of the monthly period to which it relates, together with a remittance payable to the Controller of the amount of tax, if any, due under Sections 7356 and 7357 for that period. To facilitate the administration of this part the board may require the filing of such returns for other than monthly periods. All provisions of this part relating to collection of tax from distributors shall be applicable to the tax payable by brokers and producers.

SEC. 18.6. Section 7655 of the Revenue and Taxation Code is amended to read:

7655. Any distributor who fails to pay the amount of license tax shown to be due by his return on or before the 25th day of the calendar month following the monthly period to which it relates must pay a penalty of 10 percent of the license tax, together with interest on such license tax at the adjusted annual rate established pursuant to Section 19269 from the date on which the license tax became due and payable to the state until the date of payment.

SEC. 18.7. Section 7657 of the Revenue and Taxation Code is amended to read:

7657. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 7655, 7659.6, and 7660.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 18.8. Article 1.1 (commencing with Section 7659) is added to Chapter 5 of Part 2 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.1. Prepayments

7659. The provisions of this article apply to distributors required to file a distributor's return pursuant to Section 7651.

7659.1. Upon written notification by the board, any person whose estimated tax liability under this part averages nine hundred thousand dollars ($900,000) or more per month, as determined by the board, shall, without regard to the tax in any one month, make a

prepayment as prescribed in this section. The prepayment requirement may be satisfied by making a prepayment of an amount not less than 95 percent of the tax liability for the month to which the prepayment applies or a prepayment not less than 95 percent of the amount of the tax liability reported for the previous month. Prepayments shall be made for the monthly periods designated by the board and during each succeeding monthly period until further notification by the board in writing.

7659.2. Each prepayment shall be accompanied by a report of the amount of that prepayment in a form prescribed by the board and shall be filed with the board on or before the 15th day following each monthly period together with a remittance payable to the Controller of the amount due.

7659.3. The amount of the prepayment shall constitute a credit against the amount of the taxes due and payable for the monthly period for which the prepayment was made and for each succeeding monthly prepayment or period until the credit is fully utilized.

7659.4. In determining whether a person's estimated tax liability averages nine hundred thousand dollars ($900,000) or more per month, the board may consider tax returns filed pursuant to this part as well as any information in the board's possession or which may come into its possession.

7659.5. Any person required to make a prepayment pursuant to Section 7659.1 who fails to make a timely prepayment but makes that prepayment before the 25th day of the month following the monthly period for which the prepayment was due, shall also pay a penalty of 6 percent of the amount of prepayment.

7659.6. Any person required to make a prepayment pursuant to Section 7659.1 who fails to make a prepayment before the 25th day of the month following the monthly period for which the prepayment became due and who files a timely return and payment for the monthly period for which the prepayment became due shall pay a penalty of 6 percent of the amount equal to 95 percent of the tax liability for the monthly period for which the required prepayment was not made.

7659.7. (a) If the failure to make a prepayment as described in Section 7659.6 is due to negligence or intentional disregard of this part or authorized rules and regulations, the penalty shall be 10 percent, instead of 6 percent.

(b) If any part of a deficiency in prepayment is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the deficiency shall be paid.

(c) The provisions of this section shall not apply to amounts subject to the provisions of Sections 7655, 7660, 7662, 7672, 7673, and 7727.

7659.8. Notification by the board, provided for in Section 7659.1, may be served personally or by mail in the manner prescribed in Section 7671 for service of notice of a deficiency determination.

SEC. 18.9. Section 7661 of the Revenue and Taxation Code is

amended to read:

7661. All determinations so made, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the calendar month after the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 18.10. Section 7674 of the Revenue and Taxation Code is amended to read:

7674. All deficiency determinations, exclusive of penalty, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the calendar month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 18.11. Section 7675 of the Revenue and Taxation Code is amended to read:

7675. Except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be given to the distributor within three years after the 25th day of the calendar month following the monthly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires the later. In the case of a failure to make a return the notice of determination shall be mailed within eight years after the date the return was due.

SEC. 18.12. Section 7705 of the Revenue and Taxation Code is amended to read:

7705. If any distributor fails to pay any weekly installment of tax shown to be due by his return on the Tuesday when required to be paid, a penalty of 5 percent shall be added thereto. In addition, if any weekly installment of tax remains unpaid on the 25th day of the calendar month following the month during which the last of the distributions occurred on which the weekly installment was levied, a penalty of 10 percent of the installment, exclusive of penalties, shall be added thereto.

The weekly installment shall be deemed not paid or unpaid on any particular day:

(a) If not paid prior to 5 p.m. of that day, when paid in person.

(b) If the envelope in which the remittance is enclosed bears a post office cancellation mark dated later than that day, when paid by mail.

SEC. 18.13. Section 7706 of the Revenue and Taxation Code is amended to read:

7706. All jeopardy determinations including those made under Section 7704, exclusive of penalty, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the calendar month following the close of the monthly period for which the amount or any portion thereof should have been returned until the date of payment.

SEC. 18.14. Section 8128 of the Revenue and Taxation Code is

amended to read:

8128. (a) Except as provided in subdivision (b) no refund under this article shall be approved by the board after three years from the 25th day of the calendar month following the month for which the overpayment was made, or with respect to determinations made under Article 2, 2.5 or 3 of Chapter 5 of this part, after six months from the dates the determinations become final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within such period. No credit shall be approved by the board after the expiration of such period unless a claim for credit is filed with the board within such period, or unless the credit relates to a period for which a waiver is given pursuant to Section 7676.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 7676 if a claim therefor is filed with the board before the expiration of the period agreed upon.

SEC. 18.15. Section 8130 of the Revenue and Taxation Code is amended to read:

8130. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the calendar month following the monthly period for which the overpayment is made; but no refund or credit shall be made of any interest imposed upon the claimant with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, if the claimant files a claim on his own initiative or within 30 days after he is notified by the board that a claim may be filed, to the 10th day after the date upon which the claim is certified to the State Board of Control; otherwise to the 30th day after the date upon which claimant is notified by the board that the claim may be filed.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 18.16. Section 8751 of the Revenue and Taxation Code, as amended by Chapter 323 of the Statutes of 1983, is amended to read:

8751. The excise tax imposed by this part is due and payable monthly on or before the 25th day of the month following each calendar month in which a taxable use of fuel occurs.

SEC. 18.17. Section 8752 of the Revenue and Taxation Code is amended to read:

8752. On or before the 25th day of each month, every user shall file on forms prescribed by the board a return showing the amount of fuel used during the preceding calendar month by the user in this state, the amount of any tax due, and such other information as the board may require to carry out the purposes of this part, except that the provisions of this section shall not be applicable to any user whose sole use of fuel subject to the tax imposed by this part is for the propulsion of a privately operated passenger automobile, provided

that the fuel used in this state, 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 holding a permit issued under this part.

SEC. 18.18. Article 1.1 (commencing with Section 8756) is added to Chapter 4 of Part 3 of Division 2 of the Revenue and Taxation Code, to read:

Article 1.1. Prepayments

8756. This article applies to persons holding or required to hold a vendor or user permit under this part.

8756.1. Upon written notification by the board, any person whose estimated tax liability under this part averages two thousand dollars ($2,000) or more per month, as determined by the board, shall, without regard to the tax liability in any one month, make a prepayment as prescribed in this section. The prepayment requirement may be satisfied by making a prepayment of an amount not less than 95 percent of the tax liability for the month to which the prepayment applies or a prepayment not less than 95 percent of the amount of the tax liability reported for the previous month. Prepayments shall be made for the monthly period designated by the board and during each succeeding monthly period until further notification by the board in writing.

8756.2. Each prepayment shall be accompanied by a report of the amount of that prepayment in a form prescribed by the board and shall be made to the board on or before the 15th day following each monthly period.

8756.3. The amount of the prepayment shall constitute a credit against the amount of the taxes due and payable for the monthy period for which the prepayment was made and for each succeeding monthly prepayment or period until the credit is fully utilized.

8756.4. In determining whether a person's estimated tax liability averages two thousand dollars ($2,000) or more per month, the board may consider tax returns pursuant to this part as well as any information in the board's possession or which may come into its possession.

8756.5. Any person required to make a prepayment pursuant to Section 8756.1 who fails to make a timely prepayment but makes that prepayment before the 25th day of the monthly period following the monthly period for which the prepayment was due, shall also pay a penalty of 6 percent of the amount of prepayment.

8756.6. Any person required to make a prepayment pursuant to Section 8756.1 who fails to make a prepayment before the 25th day of the monthly period following the monthly period for which the prepayment was due and who files a timely return and payment for the monthly period for which the prepayment became due shall pay a penalty of 6 percent of the amount equal to 95 percent of the tax liability for the monthly period for which the required prepayment

was not made.

8756.7. (a) If a failure to make a prepayment as described in Section 8756.6 is due to negligence or intentional disregard of this part or authorized rules and regulations, the penalty shall be 10 percent, instead of 6 percent.

(b) If any part of a deficiency in prepayment is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the deficiency shall be paid.

(c) The provisions of this section shall not apply to amounts subject to the provisions of Sections 8779, 8780, 8801, 8804, and 8876.

8756.8. Notification by the board, provided for in Section 8756.1, may be served personally or by mail in the manner prescribed in Section 8781 for service of notice of a deficiency notice.

SEC. 18.19. Section 8777 of the Revenue and Taxation Code is amended to read:

8777. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the month following the month for which the amount of the tax, or any portion thereof, should have been reported until the date of payment.

SEC. 18.20. Section 8782 of the Revenue and Taxation Code is amended to read:

8782. Except in the case of fraud, intent to evade the tax, or failure to make a return, every notice of a deficiency determination shall be given within three years after the 25th day of the month following the period for which the return was due or within three years after the return is filed, whichever period expires the later. If the user fails to make a return, the notice of determination shall be mailed within eight years after the last day of the month following the period for which the return was due.

SEC. 18.21. Section 8803 of the Revenue and Taxation Code is amended to read:

8803. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the month following the month for which the amount, or any portion thereof, should have been reported until the date of payment.

SEC. 18.22. Section 8877 of the Revenue and Taxation Code is amended to read:

8877. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 8801, 8756.5, and 8876.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he bases his claim for relief.

SEC. 18.23. Section 9152 of the Revenue and Taxation Code is

amended to read:

9152. (a) Except as provided in subdivision (b) no refund shall be approved by the board after three years from the 25th day of the month following the month for which the overpayment was made, or, with respect to determinations made under Article 2, 3 or 4 of Chapter 4 of this part, after six months from the date the determinations became final, or after six months from the date of overpayment, whichever period expires the later, unless a claim therefor is filed with the board within such period. No credit shall be approved by the board after the expiration of such period unless a claim for credit is filed with the board within such period or unless the claim relates to a period for which a waiver has been given pursuant to Section 8783.

(b) A refund may be approved by the board for any period for which a waiver is given under Section 8783 if a claim therefor is filed with the board before the expiration of the period agreed upon.

SEC. 18.24. Section 9155 of the Revenue and Taxation Code is amended to read:

9155. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the 25th day of the calendar month following the period for which the overpayment was made; but no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid:

(a) In the case of a refund, to the 25th day of the calendar month following the date upon which the person making the overpayment, if he has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

SEC. 19. Section 17024.5 of the Revenue and Taxation Code is amended to read:

17024.5. (a) Unless otherwise specifically provided, the term "Internal Revenue Code," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto in effect on the specified date for the applicable taxable year as follows:

Taxable Year	Effective date of Internal Revenue Code Sections
(1) For taxable years beginning on or after January 1, 1983, and on or before December 31, 1983	January 15, 1983
(2) For taxable years beginning on or after January 1, 1984.....	January 15, 1983

(b) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any provision therein relating to any of the following shall not be applicable for purposes of this part:

(1) An electing small business corporation, as defined in Section 1361(b) of the Internal Revenue Code.

(2) Domestic international sales corporations (DISC), as defined in Section 992(a) of the Internal Revenue Code.

(3) A personal holding company, as defined in Section 542 of the Internal Revenue Code.

(4) A foreign personal holding company, as defined in Section 552 of the Internal Revenue Code.

(5) A foreign investment company, as defined in Section 1246(b) of the Internal Revenue Code.

(6) A foreign trust, as defined in Section 679 of the Internal Revenue Code.

(7) Foreign taxes and foreign tax credits.

(8) Section 911 of the Internal Revenue Code, relating to United States citizens living abroad.

(9) A foreign corporation, except that Section 367 of the Internal Revenue Code shall be applicable.

(10) A separate tax on lump-sum distributions imposed by Section 402(e) of the Internal Revenue Code.

(11) Credits and credit carryovers.

(12) Net operating losses.

(13) Nonresident aliens.

(14) "Short-term" and "long-term" capital gain or loss, or the deduction for capital gains allowed by Section 1202 of the Internal Revenue Code (see Section 18162.5 for amounts includable in income for purposes of this part).

(15) Section 1245 of the Internal Revenue Code recovery property.

(16) Recovery property specified in Section 168 of the Internal Revenue Code.

(17) Section 179 of the Internal Revenue Code property.

(18) Deduction for personal exemptions, as provided in Section 151 of the Internal Revenue Code.

(19) The deduction for the two-earner married couples as allowed by Section 221 of the Internal Revenue Code.

(20) The tax on generation-skipping transfers imposed by Section 2601 of the Internal Revenue Code.

(c) When applying the Internal Revenue Code for purposes of this part, any reference to regulations prescribed by "the secretary" shall not be applicable if the Franchise Tax Board has adopted and issued regulations. In the absence of regulations issued by the Franchise Tax Board, regulations issued by "the secretary" in effect as of the applicable effective date of the Internal Revenue Code sections referred to in subdivision (a) shall be applicable to the extent that they do not conflict with this part.

(d) Whenever this part allows a taxpayer to make an election, the following rules shall apply:

(1) A proper election filed in accordance with the Internal Revenue Code or regulations issued by "the secretary" shall be deemed to be a proper election for purposes of this part, unless otherwise provided in this part or in regulations issued by the Franchise Tax Board.

(2) A copy of that election shall be furnished to the Franchise Tax Board upon request.

(e) Whenever this part allows or requires a taxpayer to file an application or seek consent, the rules set forth in subdivision (d) shall be applicable with respect to any such application or consent.

(f) When applying the Internal Revenue Code for purposes of this part, any reference to a period of three years shall be modified to read four years for purposes of this part.

(g) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to the "secretary" shall mean the "Franchise Tax Board."

(h) Unless otherwise specifically provided, when applying any section of the Internal Revenue Code for purposes of this part, any reference to "adjusted gross income" (AGI) shall mean the amount computed as adjusted gross income, in accordance with Section 17072, on the California income tax return for the same taxable year.

SEC. 19.5. Section 17042.5 of the Revenue and Taxation Code, as added by Chapter 1537 of the Statutes of 1982, is amended to read:

17042.5. (a) Notwithstanding Section 17042, an individual shall be considered a joint custody head of household if that individual:

(1) Is not married at the close of the taxable year, or files a separate return and does not have his or her spouse as a member of his or her household during the entire taxable year.

(2) Maintains as his or her home a household which constitutes for the taxable year the principal place of abode for a qualifying child, as defined in subdivision (b), for no less than 146 days of the taxable year but no more than 219 days of the taxable year, under a decree of dissolution or separate maintenance, or under a written agreement between the parents prior to the issuance of a decree of dissolution or separate maintenance where the proceedings have been initiated.

(3) Furnishes over one-half the cost of maintaining the household during the taxable year.

(b) For purposes of this section, a "qualifying child" shall mean a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if that son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a credit for the taxable year for that person under Section 17054.

(c) The tax for an individual who is considered a joint custody head of household pursuant to this section shall be computed using:

(1) A rate which is the sum of the rate for a single individual and

the rate for a head of household divided by two.

(2) A personal exemption credit, rounded to the nearest one dollar ($1), which is the sum of the personal exemption credit allowable to a single individual and the personal exemption allowable to a head of household divided by two.

(3) A renter's credit, rounded to the nearest one dollar ($1), which is the sum of the renter's credit allowable to a single individual and the renter's credit allowable to a head of household divided by two.

(4) All other credits shall be allowed on the basis of the taxpayer being a single person.

(d) The Franchise Tax Board shall construct a tax rate schedule, to accompany tax returns, for joint custody heads of household, based on the provisions of this section.

SEC. 19.7. Section 17053.7 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

17053.7. (a) There shall be allowed as a credit against the "net tax" (as defined by Section 17039) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(3) With respect to a "qualified summer youth employee," has received a certification from the Employment Development Department for purposes of claiming a federal tax credit in accordance with Section 51(d)(12) of the Internal Revenue Code.

(b) The credit under this section shall not apply to wages paid in excess of three thousand dollars ($3,000) during a taxable year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to the taxpayer; or

(2) Who, if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to a grantor, beneficiary, or fiduciary of the estate or trust; or

(3) Who is a dependent (as described in subdivision (i) of Section 17056) of the taxpayer, or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual has been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employment has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amount paid or incurred to an individual who begins work for the employer after December 31, 1984.

SEC. 20. Section 17063.2 of the Revenue and Taxation Code is amended to read:

17063.2. (a) For purposes of subdivision (a) of Section 17063, the amount of the excess itemized deductions for any taxable year is the amount by which the sum of the deductions for the taxable year other than—

(1) The deduction for state and local taxes provided by Section 164(a) of the Internal Revenue Code,

(2) The deduction for medical, dental, etc., expenses provided by Section 213 of the Internal Revenue Code,

(3) The deduction for casualty losses described in Section 165(c)(3) of the Internal Revenue Code,

(4) The deduction allowable under Section 691(c)(1) of the Internal Revenue Code, exceeds 60 percent of the taxpayer's adjusted gross income reduced by the items in paragraphs (1) through (4) for the taxable year.

(b) In the case of a trust or estate, any deduction allowed or allowable for the taxable year—

(1) Under Section 642(c) of the Internal Revenue Code (but only to the extent that the amount of the deduction allowable under such section is included in the income of the beneficiary under Section 662(a) of the Internal Revenue Code for the taxable year of the beneficiary with which or within which the taxable year of the trust ends);

(2) Under Section 642(e), 642(f), 651, 661, or 691 of the Internal Revenue Code; or

(3) For costs paid or incurred in connection with the administration of the trust or estate shall, for purposes of subdivision

(a), be treated as a deduction allowable in arriving at an adjusted gross income.

SEC. 21. Section 17220 of the Revenue and Taxation Code is amended to read:

17220. (a) No deduction shall be allowed for state, local, and foreign income, war profits, and excess profits taxes.

(b) A deduction shall be allowed for standby or availability charges or special taxes for fire suppression and police protection services imposed pursuant to Chapter 397 of the Statutes of 1979.

SEC. 21.5. Section 17274 of the Revenue and Taxation Code, as amended by Chapter 488 of the Statutes of 1983, is amended to read:

17274. (a) Notwithstanding any other provisions in this part to the contrary, in the case of a taxpayer who derives rental income from substandard housing located in this state, no deduction shall be allowed for interest, taxes, depreciation, or amortization paid or incurred in the taxable year with respect to the substandard housing, except as provided in subdivision (e).

(b) Substandard housing means housing which (1) has been determined by a state or local government regulatory agency to violate state law or local codes dealing with health, safety, or building; and (2) after written notice of violation by the regulatory agency, specifying the applicability of this section, has not been brought to a condition of compliance within six months after the date of the notice or the time prescribed in the notice, whichever period is later; or on which good faith efforts for compliance have not been commenced, as determined by the regulatory agency. The regulatory agency may, for good cause shown, extend the compliance date prescribed in a violation notice.

(c) When the period specified in subdivision (b) has expired without compliance, the regulatory agency shall mail to the taxpayer a notice of noncompliance. The notice of noncompliance shall be in such form and shall include such information as may be prescribed by the Franchise Tax Board, shall be mailed by certified mail to the taxpayer at the taxpayer's last known address, and shall advise the taxpayer (1) of an intent to notify the Franchise Tax Board of the noncompliance within 10 days unless an appeal is filed, (2) where an appeal may be filed, and (3) a general description of the tax consequences of the filing with the Franchise Tax Board. Appeals shall be made to the same body and in the same manner as appeals from other actions of the regulatory agency. If no appeal is made within 10 days or after disposition of the appeal if the regulatory agency is sustained, the regulatory agency shall notify the Franchise Tax Board of the noncompliance. No deduction shall be allowed for the items provided in subdivision (a) from the date of the notice of noncompliance until the date the regulatory agency determines that the substandard housing has been brought to a condition of compliance. The regulatory agency shall mail to the Franchise Tax Board and the taxpayer a notice of compliance, which notice shall be in such form and include such information as may be prescribed by

the Franchise Tax Board. In the event the period of noncompliance does not cover an entire taxable year, the deductions shall be denied at the rate of one-twelfth for each full month during the period of noncompliance.

If the property is owned by more than one owner or if recorded title is in the name of a fictitious owner, the notice requirements provided in subdivision (b) and this subdivision shall be satisfied for each owner if the notices are mailed to one owner or to the fictitious name owner at the address appearing on the latest available property tax bill. However, notices made pursuant to this subdivision shall not relieve the regulatory agency from furnishing taxpayer identification information required to implement this section to the Franchise Tax Board.

(d) For the purposes of this section, a notice of noncompliance shall not be mailed by the regulatory agency to the Franchise Tax Board if:

(1) The rental housing was rendered substandard solely by reason of earthquake, flood or other natural disaster except where the condition remains for more than three years after the disaster,

(2) The owner of the rental housing has secured financing to bring the housing into compliance with those laws or codes which have been violated, causing the housing to be classified as substandard, and has commenced repairs or other work necessary to bring the housing into compliance or

(3) The owner of rental housing which is not within the meaning of housing accommodation as defined by subdivision (d) of Section 35805 of the Health and Safety Code has attempted to:

(A) Secure financing to bring such housing into compliance with those laws or codes which have been violated, causing such housing to be classified as substandard; and

(B) The financing is denied solely because such housing is located in a neighborhood or geographical area in which financial institutions do not provide financing for rehabilitation of any such housing.

(e) This section does not apply to deductions from income derived from property rendered substandard solely by reason of a change in applicable state or local housing standards unless the violations cause substantial danger to the occupants of the property, as determined by the regulatory agency which has served notice of violation pursuant to subdivision (b).

(f) The owner of rental housing found to be in noncompliance shall, upon total or partial divestiture of interest in the property, immediately notify the regulatory agency of the name and address of the person or persons to whom the property has been sold or otherwise transferred and the date of the sale or transference.

(g) By July 1st of each year, the regulatory agency shall report to the appropriate legislative body of its jurisdiction all of the following information, for the preceding calendar year, regarding its activities to secure code enforcement, which shall be public information:

(1) The number of written notices of violation issued for substandard dwellings under subdivision (b).

(2) The number of violations complied with within the period prescribed in subdivision (b).

(3) The number of notices of noncompliance issued pursuant to subdivision (c).

(4) The number of appeals from those notices pursuant to subdivision (c).

(5) The number of successful appeals by owners.

(6) The number of notices of noncompliance mailed to the Franchise Tax Board pursuant to subdivision (c).

(7) The number of cases in which a notice of noncompliance was not sent pursuant to the provision of subdivision (d).

(8) The number of extensions for compliance granted pursuant to subdivision (b) and the mean average length of the extensions.

(9) The mean average length of time from the issuance of a notice of violation to the mailing of a notice of noncompliance to the Franchise Tax Board where the notice is actually sent to the Franchise Tax Board.

(10) The number of cases where compliance is achieved after a notice of noncompliance has been mailed to the Franchise Tax Board.

(11) The number of instances of disallowance of tax deductions by the Franchise Tax Board resulting from referrals made by the regulatory agency. This information may be filed in a supplemental report in succeeding years as it becomes available.

SEC. 22. Section 17556 is added to the Revenue and Taxation Code, to read:

17556. Notwithstanding Section 442 of the Internal Revenue Code, the estate may change its annual accounting period one time without the approval of the Franchise Tax Board.

SEC. 23. Section 18173 of the Revenue and Taxation Code is amended to read:

18173. (a) Section 1250(a) of the Internal Revenue Code shall not apply to residential rental property which is two or more dwelling units in the same structure situated in California and under the same ownership described in Section 167(j)(2) of the Internal Revenue Code.

(b) The provisions of this section shall be operative only in those taxable years in which substantially similar provisions are operative in federal law, and shall cease to be operative on January 1, 1988, and on that date are repealed.

(c) This section shall apply only to residential real property the construction of which is commenced after December 31, 1982.

SEC. 24. Section 18586.7 of the Revenue and Taxation Code is amended to read:

18586.7. If any person initiates a motion to quash a subpoena, as provided by Sections 7465 through 7476, inclusive, of the Government Code, and that person is the person with respect to

whose liability the subpoena is issued (or is the agent, nominee, or other person acting under the direction or control of that person), then the running of any period of limitations under Section 18586 (relating to deficiency assessments) or under Section 18648 (relating to false or fraudulent returns) or Section 19404 (relating to criminal prosecutions) with respect to that person shall be suspended for the period during which a proceeding, and appeals therein, with respect to the enforcement of the subpoena is pending.

SEC. 25. Section 18681.1 of the Revenue and Taxation Code is amended to read:

18681.1. (a) In the case of each failure—

(1) To file a statement of the amount of payments to another person required by—

(A) Section 18802 (relating to information at source),

(B) Section 18803 (relating to payments of interest and corporate dividends),

(C) Section 18802.1 (relating to payments of patronage dividends),

(D) Section 18802.8 (relating to reporting requirements of certain fishing boat operators),

(2) To make a return required by Section 18802.5 (relating to reporting payment of wages in the form of group-term life insurance), on the date prescribed therefor (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not to willful neglect, there shall be paid (upon notice and demand by the Franchise Tax Board and in the same manner as the tax), by the person or employer failing to file a statement referred to in subdivision (a) or a return referred to in subdivision (b) or (c), ten dollars ($10) for each failure, but the total amount imposed on the delinquent person or employer for all failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(b) If one or more failures to which subdivision (a) applies are due to intentional disregard of the filing requirement, then with respect to those failures—

(1) The penalty imposed under subdivision (a) shall not be less than an amount equal to 2 percent of the aggregate amount of the items required to be reported,

(2) The ten thousand dollar ($10,000) limitation under subdivision (a) shall not apply.

The amendments to this section made by the 1981–82 Regular Session of the Legislature shall apply to returns or statements required to be furnished after December 31, 1981.

SEC. 25.7. Section 18802.7 of the Revenue and Taxation Code, as amended by Chapter 488 of the Statutes of 1983, is amended to read:

18802.7. (a) Every corporation—

(1) Which in any calendar year transfers a share of stock to any person pursuant to that person s exercise of a qualified stock option, an incentive stock option, or a restricted stock option, or

(2) Which in any calendar year records (or has by its agent recorded) a transfer of the legal title of a share of stock—

(A) Acquired by the transferor pursuant to his or her exercise of an option described in Section 423(c) of the Internal Revenue Code (relating to special rule where option price is between 85 percent and 100 percent of value of stock), or

(B) Acquired by the transferor pursuant to his or her exercise of a restricted stock option described in Section 424(c)(1) of the Internal Revenue Code (relating to options under which option price is between 85 percent and 95 percent of value of stock),

shall, (on or before January 31 of the following calendar year) furnish to such person a written statement in such manner and setting forth such information as the Franchise Tax Board may by regulations prescribe.

(b) For purposes of this section—

(1) Any option which the corporation treats as a qualified stock option, incentive stock option, a restricted stock option, or an option granted under an employee stock purchase plan shall be deemed to be such an option.

(2) A statement is required by reason of a transfer described in paragraph (2) of subdivision (a) of a share only with respect to the first transfer of such share by the person who exercised the option.

(3) Any corporation which transfers any share of stock pursuant to the exercise of any option described in paragraph (2) of subdivision (a) shall identify that stock in a manner adequate to carry out the purposes of this section.

(c) The amendments made to this section by the act adding this subdivision shall apply with respect to options granted and exercised on or after January 1, 1982.

SEC. 25.8. Section 18881 of the Revenue and Taxation Code is amended to read:

18881. (a) If any taxpayer or person fails to pay any liability imposed under this part at the time that it becomes due and payable, the amount thereof, (including any interest, additional amount, addition to tax, or penalty, together with any costs that may accrue in addition thereto) shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts of any liability disclosed on a return filed on or before the date payment is due (with regard to any extension of time to pay), the date the amount is established on the records of the Franchise Tax Board, except that in no case will it be prior to the day after such payment due date;

(2) For amounts of any liability disclosed on a return filed after the date payment is due (with regard to any extension of time to pay), the date the amount is established on the records of the Franchise Tax Board;

(3) For amounts of any liability determined under Section 18641 or 18642 (pertaining to jeopardy assessments), the date the notice of the Franchise Tax Board's finding is mailed or issued;

(4) For all other amounts of liability, the date the assessment is final.

SEC. 25.9. Section 19062.11 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

19062.11. (a) Except as provided in subdivisions (b), (c), and (d), if any overpayment of tax imposed by this part is refunded or credited within 90 days after the return is filed, or within 90 days after the last day prescribed for filing the return or such tax (determined without regard to any extension of time for filing the return), whichever is later, no interest shall be allowed under Section 19062 on such overpayment.

For the purposes of this section, the term "overpayment of tax" shall be defined to include a refund in excess of tax liability as prescribed in subdivision (h) of Section 17053.5.

(b) In the case of returns which set forth no determination or amount of tax liability, or credits other than that allowed under Section 17053.5, and which are filed solely for the purpose of claiming the renter credit, no interest shall be allowed on refunds made within 90 days from the date on which the return is filed, or within 90 days after the last day prescribed for filing the return, whichever is later. The provisions of this subdivision shall apply only in the event that communication with the claimant or other verification is necessary to determine entitlement to the claimed credit.

(c) For the 1982 taxable year and each taxable year thereafter, the 90-day time periods specified in subdivision (a) shall be 45 days.

(d) In the case of a return of tax which is filed after the last date prescribed for filing such return (determined with regard to extensions), no interest shall be allowed or paid for any day before the date on which the return is filed.

SEC. 26. Section 19401 of the Revenue and Taxation Code is amended to read:

19401. Any person who, with or without intent to evade any requirement of this part or any lawful requirement of the Franchise Tax Board under this part, fails to file any return or to supply any information required under this part, or who, with or without such intent, makes, renders, signs, or verifies any false or fraudulent return or statement, or supplies any false or fraudulent information, is liable to a penalty of not more than five thousand dollars ($5,000). The penalty shall be recovered by the Attorney General or the counsel for the Franchise Tax Board in the name of the people by action in any court of competent jurisdiction.

The person is also guilty of a misdemeanor and shall upon conviction be fined not to exceed five thousand dollars ($5,000) or be imprisoned not to exceed one year, or both, at the discretion of the court.

SEC. 27. Section 19406 of the Revenue and Taxation Code is

amended to read:

19406. Any person who, within the time required by or under the provisions of this part, willfully fails to file any return or to supply any information with intent to evade any tax imposed by this part, or who, willfully and with like intent, makes, renders, signs, or verifies any false or fraudulent return or statement or supplies any false or fraudulent information, 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 twenty thousand dollars ($20,000), or by both such fine and imprisonment, at the discretion of the court.

SEC. 28. Section 19414 of the Revenue and Taxation Code is amended to read:

19414. Whenever it appears to the State Board of Equalization or any court of record of this state that proceedings before it under this part have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position in the proceedings is frivolous or groundless, a penalty in an amount not in excess of five thousand dollars ($5,000) shall be imposed. Any penalty so imposed shall be paid upon notice and demand from the Franchise Tax Board and shall be collected as a tax.

SEC. 28.5. Section 23051.5 of the Revenue and Taxation Code is amended to read:

23051.5. Unless otherwise specifically provided, the term "Internal Revenue Code" or "Internal Revenue Code of 1954," for purposes of this part, means Title 26 of the United States Code, including all amendments thereto, in effect on the specified date for the applicable taxable year as defined in subdivision (a) of Section 17024.5, except that for purposes of this part, "income year" shall be substituted for "taxable year" throughout that section.

SEC. 28.7. Section 24330 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

24330. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 10 percent of the amount of wages paid to each employee who is certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

The credit under this section shall not apply to an individual unless, on or before the day on which that individual begins work for the employer, the employer:

(1) Has received a certification from the Employment Development Department, or

(2) Has requested in writing that certification from the Employment Development Department.

(3) With respect to a "qualified summer youth employee," has received a certification from the Employment Development Department for purposes of claiming a federal tax credit in accordance with Section 51(d)(12) of the Internal Revenue Code.

(b) The credit under this section shall not apply to wages paid in

excess of three thousand dollars ($3,000) during an income year by a taxpayer to the same individual. With respect to each qualified employee, the aggregate credit under this section shall not exceed six hundred dollars ($600).

(c) The credit under this section shall not apply to wages paid to an individual:

(1) Who bears any of the relationships described in subdivisions (a) through (h), inclusive, of Section 17056 to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the taxpayer (as determined pursuant to Section 24429); or

(2) Who an individual described in paragraph (i).

(d) The credit under this section shall not apply to wages paid to an individual if, prior to the hiring date of that individual, that individual had been employed by the employer at any time during which he or she was not certified by the Employment Development Department to meet the requirements of Section 328 of the Unemployment Insurance Code.

(e) If the certification of an employee has been revoked pursuant to subdivision (c) of Section 328 of the Unemployment Insurance Code, the credit under this section shall not apply to wages paid by the employer after the date on which notice of revocation is received by the employer.

(f) The credit under this section shall be in addition to any deduction under this part to which the taxpayer may be entitled, if any.

(g) The credit provided by this section shall be applied to wages paid to each qualifying employee during the 24-month period beginning on the date such employee begins working for the taxpayer.

(h) The term "wages" shall not include any amounts paid or incurred to an individual who begins work for the employer after December 31, 1984.

SEC. 29.5. Section 24483.5 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

24483.5. (a) (1) If—

(A) A corporation distributes property (other than an obligation of such corporation) to a shareholder in a redemption (to which Article 1 (commencing with Section 24451) applies) of part or all of his stock in such corporation, and

(B) The fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation), then a gain shall be recognized to the distributing corporation in an amount equal to such excess as if the property distributed had been sold at the time of the distribution. Sections 24482 and 24483 shall not apply to any distribution to which this section applies.

(2) Paragraph (1) shall not apply to any of the following:

(A) A distribution to a corporate shareholder if the basis of the property distributed is determined under paragraph (3) of

subdivision (b) of Section 24455.

(B) A distribution to which paragraph (4) of subdivision (b) of Section 24455 applies and which is made with respect to qualified stock.

(C) A distribution before December 1, 1974, of stock of a corporation substantially all of the assets of which the distributing corporation (or a corporation which is a member of the same affiliated group (as defined in Section 23361) as the distributing corporation) held on November 30, 1969, if such assets constitute a trade or business which has been actively conducted throughout the one-year period ending on the date of the distribution.

(D) A distribution of stock or an obligation of a corporation if the requirements of paragraph (2) of subdivision (d) are met with respect to the distribution.

(E) A distribution to the extent that Section 303 of the Internal Revenue Code (relating to distributions in redemption of stock to pay death taxes) applies to such distribution.

(F) A distribution by a corporation to which Section 23701m (relating to and including regulated investment companies) applies, if such distribution is in redemption of the stock upon the demand of the shareholder.

(b) (1) Except as to distributions described in paragraphs (2) and (3), this section and the amendments to paragraph (2) of subdivision (a) of Section 24452, subdivision (b) of Section 24454, and subdivision (c) of Section 24486 at the 1971 First Extraordinary Session of the Legislature shall apply with respect to distributions after December 31, 1970.

(2) A distribution by a corporation of property (held on December 1, 1969, by the distributing corporation or a corporation which was a wholly owned subsidiary of the distributing corporation on such date) in redemption of stock outstanding on November 30, 1969, which is redeemed and canceled before July 31, 1971, if—

(A) Such redemption is pursuant to a resolution adopted before November 1, 1969, by the board of directors authorizing the redemption of a specific amount of stock constituting more than 10 percent of the outstanding stock of the corporation at the time of the adoption of such resolution; and

(B) More than 40 percent of the stock authorized to be redeemed pursuant to such resolution was redeemed before December 30, 1969, and more than one-half of the stock so redeemed was redeemed with property other than money.

(3) A distribution of stock by a corporation organized prior to December 1, 1969, for the principal purpose of providing an equity participation plan for employees of the corporation whose stock is being distributed (hereinafter referred to as the "employer corporation") if—

(A) The stock being distributed was owned by the distributing corporation on November 30, 1969.

(B) The stock being redeemed was acquired before January 1,

1973, pursuant to such equity participation plan by the shareholder presenting such stock for redemption (or by a predecessor of such shareholder),

(C) The employment of the shareholder presenting the stock for redemption (or the predecessor of such shareholder) by the employer corporation commenced before January 1, 1971,

(D) At least 90 percent in value of the assets of the distributing corporation on November 30, 1969, consisted of common stock of the employer corporation, and

(E) At least 50 percent of the outstanding voting stock of the employer corporation is owned by the distributing corporation at any time within the nine-year period ending one year before the date of such distribution.

(c) For purposes of subdivision (b) and this subdivision—

(1) (A) The term "qualified stock" means stock held by a person (other than a corporation) who at all times during the lesser of—

(i) The five-year period ending on the date of distribution, or

(ii) The period during which the distributing corporation (or a predecessor corporation) was in existence,

held at least 10 percent in value of the outstanding stock of the distributing corporation (or predecessor corporation).

(B) Section 24497 shall apply in determining ownership of stock under subparagraph (A); except that, in applying paragraph (1) of subdivision (a) of Section 24497, the term "family" includes any individual described in subdivision (d) of Section 24429 and any spouse of any such individual.

(2) (A) A distribution of stock or an obligation of a corporation (hereinafter in this paragraph referred to as the "controlled corporation") meets the requirements of this paragraph if—

(i) That distribution is made with respect to qualified stock,

(ii) Substantially all of the assets of the controlled corporation consists of the assets of one or more qualified businesses,

(iii) No substantial part of the controlled corporation's nonbusiness assets were acquired from the distributing corporation, in a transaction to which Section 24521 applied or as a contribution to capital, within the five-year period ending on the date of the distribution, and

(iv) More than 50 percent in value of the outstanding stock of the controlled corporation is distributed by the distributing corporation with respect to qualified stock.

(B) For purposes of subparagraph (A)—

(i) The term "qualified business" means any trade or business which—

(I) Was actively conducted throughout the five-year period ending on the date of the distribution, and

(II) Was not acquired by any person within that period in a transaction in which gain or loss was recognized in whole or in part.

(ii) The term "nonbusiness asset" means any asset not used in the active conduct of a trade or business.

SEC. 29.7. Section 24514 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

24514. (a) This section and Sections 24512 and 24513 shall not apply to any sale or exchange—

(1) Made by a collapsible corporation (as defined in Section 341(b) of the Internal Revenue Code), or

(2) Following the adoption of a plan of complete liquidation, if Section 24503 applies with respect to such liquidation, or

(3) Made by a corporation all of whose shareholders are not United States persons (as defined in Section 7701(a)(30) of the Internal Revenue Code of 1954). In the case, however, of a corporation having both United States person and non-United States person shareholders (within the meaning of the preceding sentence) this section and Sections 24512 and 24513 shall apply only to the extent the gain or loss from the sale or exchange represents the United States persons' shareholder interest in the corporation.

(b) In the case of a sale or exchange following the adoption of a plan of complete liquidation, if Section 24502 applies with respect to such liquidation, this section shall not apply.

(c) (1) Subdivision (b) shall not apply to a sale or exchange by a corporation (hereinafter in this subdivision referred to as the "selling corporation") if:

(A) Within the 12-month period beginning on the date of the adoption of a plan of complete liquidation by the selling corporation, the selling corporation and each distributee corporation is completely liquidated, and

(B) None of the complete liquidations referred to in subparagraph (A) is a liquidation with respect to which Section 24503 applies.

(2) For purposes of paragraph (1):

(A) The term "distributee corporation" means a corporation in the chain of includable corporations to which the selling corporation or a corporation above the selling corporation in such chain makes a distribution in complete liquidation within the 12-month period referred to in paragraph (1)(A).

(B) The term "chain of includable corporations" includes, in the case of any distribution, any corporation which (at the time of such distribution) is in a chain of includable corporations for purposes of Section 23361. Such term includes, where appropriate, the common parent corporation.

(d) The amendment made to subdivision (b) by the 1977–78 Regular Session of the Legislature shall apply to sales or exchanges made pursuant to a plan of complete liquidation adopted after December 31, 1976.

SEC. 30. Section 24562 of the Revenue and Taxation Code is amended to read:

24562. (a) For purposes of Chapters 8 (commencing with Section 24451) and 9 (commencing with Section 24501) and this chapter, the term "reorganization" means—

(1) A statutory merger or consolidation;

(2) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition);

(3) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded;

(4) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535;

(5) A recapitalization;

(6) A mere change in identity, form, or place of organization of one corporation, however effected; or

(7) A transfer by a corporation of all or part of its assets to another corporation in a Title 11 or similar case; but only if, in pursuance of the plan, stock or securities of the corporation to which the assets are transferred are distributed in a transaction which qualifies under Section 24531, 24533, or 24535.

(b) (1) If a transaction is described in both paragraph (3) and paragraph (4) of subdivision (a). then, for purposes of this chapter, such transaction shall be treated as described only in paragraph (4) of subdivision (a).

(2) If—

(A) One corporation acquires substantially all of the properties of another corporation;

(B) The acquisition would qualify under paragraph (3) of subdivision (a) but for the fact that the acquiring corporation exchanges money or other property in addition to voting stock; and

(C) The acquiring corporation acquires, solely for voting stock described in paragraph (3) of subdivision (a), property of the other corporation having a fair market value which is at least 80 percent of the fair market value of all of the property of the other corporation;

then such acquisition shall (subject to paragraph (1) of this

subdivision) be treated as qualifying under paragraph (3) of subdivision (a). Solely for the purpose of determining whether subparagraph (C) of the preceding sentence applies, the amount of any liability assumed by the acquiring corporation, and the amount of any liability to which any property acquired by the acquiring corporation is subject, shall be treated as money paid for the property.

(3) A transaction otherwise qualifying under paragraph (1), paragraph (2) or paragraph (3) of subdivision (a) shall not be disqualified by reason of the fact that part or all of the assets or stock which were acquired in the transaction are transferred to a corporation controlled by the corporation acquiring such assets or stock. A similar rule shall apply to a transaction otherwise qualifying under paragraph (7) of subdivision (a) where the requirements of subparagraphs (A) and (B) of paragraph (1) of subdivision (b) of Section 24531 are met with respect to the acquisition of the assets.

(4) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this paragraph as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under paragraph (1) or paragraph (7) of subdivision (a), if—

(A) No stock of the acquiring corporation is used in the transaction, and

(B) In the case of a transaction under paragraph (1) of subdivision (a), such transaction would have qualified under paragraph (1) of subdivision (a) had the merger been into the controlling corporation.

(5) A transaction otherwise qualifying under paragraph (1) of subdivision (a) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this paragraph as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if—

(A) After the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and

(B) In the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(6) (A) If immediately before a transaction described in subdivision (a) (other than paragraph (5) thereof), two or more parties to the transaction were investment companies, then the transaction shall not be considered to be a reorganization with respect to any such investment company (and its shareholders and security holders) unless it was a regulated investment company, a real estate investment trust, or a corporation which meets the

requirements of subparagraph (B).

(B) A corporation meets the requirements of this subparagraph if not more than 25 percent of the value of its total assets is invested in the stock and securities of any one issuer, and not more than 50 percent of the value of its total assets is invested in the stock and securities of five or fewer issuers. For purposes of this paragraph, all members of a controlled group of corporations (within the meaning of Section 1563(a) of the Internal Revenue Code of 1954) shall be treated as one issuer.

(C) For purposes of this paragraph the term "investment company" means a regulated investment company, a real estate investment trust, or a corporation 50 percent or more of the value of whose total assets are stock and securities and 80 percent or more of the value of whose total assets are assets held for investment. In making the 50-percent and 80-percent determinations under the preceding sentence, stock and securities in any subsidiary corporation shall be disregarded and the parent corporation shall be deemed to own its ratable share of the subsidiary's assets, and a corporation shall be considered a subsidiary if the parent owns 50 percent or more of the combined voting power of all classes of stock entitled to vote, or 50 percent or more of the total value of shares of all classes of stock outstanding.

(D) For purposes of this paragraph, in determining total assets there shall be excluded cash and cash items (including receivables), government securities, and, under regulations prescribed by the Franchise Tax Board, assets acquired (through incurring indebtedness or otherwise) for purposes of meeting the requirements of subparagraph (B) or ceasing to be an investment company.

(E) This paragraph shall not apply if the stock of each investment company is owned substantially by the same persons in the same proportions.

(F) If an investment company which does not meet the requirements of subparagraph (B) acquires assets of another corporation, subparagraph (A) shall be applied to such investment company and its shareholders and security holders as though its assets had been acquired by such other corporation. If such investment company acquires stock of another corporation in a reorganization described in Section 24562(a)(2) (hereafter referred to as the "actual acquisition") subparagraph (A) shall be applied to the shareholders of such investment company as though they had exchanged with such other corporation all of their stock in such investment company for stock having a fair market value equal to the fair market value of their stock of such investment company immediately after the exchange.

(G) For purposes of subparagraphs (b) and (c), the term "securities" includes obligations of state and local governments, commodity futures contracts, shares of regulated investment companies and real estate investment trusts, and other investments

constituting a security within the meaning of the Investment Company Act of 1940, 15 U.S.C. 80a-2(36).

(c) The amendments made to this section by the 1971 First Extraordinary Session of the Legislature shall apply to statutory mergers occurring after December 31, 1970.

(d) (1) For purposes of this chapter, the term "Title 11 or similar case" means—

(A) A case under Title 11 of the United States Code, to the extent this chapter is not in conflict with Section 346(q)(17)(C) of Title 11, or

(B) A receivership, foreclosure, or similar proceeding in a federal or state court.

(2) In applying paragraph (7) of subdivision (a), a transfer of the assets of a corporation shall be treated as made in a Title 11 or similar case if and only if—

(A) Any party to the reorganization is under the jurisdiction of the court in such case, and

(B) The transfer is pursuant to a plan of reorganization approved by the court.

(3) If a transaction (but for this paragraph) qualify both—

(A) Under paragraph (7) of subdivision (a), and

(B) Under any other paragraph of subdivision (a) or under Section 24502 or 24521, then, for purposes of this chapter (other than Section 24540(c)(1)), such transaction shall be treated as qualifying only under paragraph (7) of subdivision (a).

(4) For purposes of paragraphs (1) and (2), in the case of a receivership, foreclosure, or similar proceeding before a federal or state agency involving a financial institution to which Section 585 or 593 of the Internal Revenue Code applies, the agency shall be treated as a court.

(5) In the case of a Title 11 or similar case, the requirement of subparagraph (B) of paragraph (5) of subdivision (b) shall be treated as met if—

(A) No former shareholder of the surviving corporation received any consideration for his stock, and

(B) The former creditors of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, debt of the surviving corporation which had a fair market value equal to 80 percent or more of the total fair market value of the debt of the surviving corporation.

SEC. 30.1. Section 24603 of the Revenue and Taxation Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

24603. (a) In the income year when paid, if the contributions are paid into a stock bonus or profit-sharing trust, and if such income year ends within or with an income year of the trust with respect to which the trust is exempt under Section 401(a) of the Internal Revenue Code, in an amount not in excess of 15 percent of the compensation otherwise paid or accrued during the income year to all employees under the stock bonus or profit-sharing plan. If in any

income year there is paid into the trust, or a similar trust then in effect, amounts less than the amounts deductible under the preceding sentence, the excess, or if no amount is paid, the amounts deductible shall be carried forward and be deductible when paid in the succeeding income years in order of time, but the amount so deductible under this sentence in any such succeeding income year shall not exceed 15 percent of the compensation otherwise paid or accrued during such succeeding income year to the beneficiaries under the plan, but the amount so deductible under this sentence in any one succeeding income year together with the amount so deductible under the first sentence of this subdivision shall not exceed 25 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. In addition, any amount paid into the trust in any income year in excess of the amount allowable with respect to such year under the preceding provisions of this subsection shall be deductible in the succeeding income years in order of time, but the amount so deductible under this sentence in any one such succeeding income year together with the amount allowable under the first sentence of this subsection shall not exceed 15 percent of the compensation otherwise paid or accrued during such income year to the beneficiaries under the plan. The term "stock bonus or profit-sharing trust," as used in this subsection, shall not include any trust designed to provide benefits upon retirement and covering a period of years, if under the plan the amounts to be contributed by the employer can be determine actuarially as provided in Section 24601. If the contributions are made to two or more stock bonus or profit-sharing trusts, such trusts shall be considered a single trust for purposes of applying the limitations in this subsection.

(b) In the case of a profit-sharing plan, or a stock bonus plan in which contributions are determined with reference to profits, of a group of corporations which is an affiliated group within the meaning of Section 1504 of the Federal Internal Revenue Code of 1954, if any member of such affiliated group is prevented from making a contribution which it would otherwise have made under the plan, by reason of having no current or accumulated earnings or profits or because such earnings or profits are less than the contributions which it would otherwise have made, then so much of the contribution which such member was so prevented from making may be made, for the benefit of the employees of such member, by the other members of the group, to the extent of current or accumulated earnings or profits, except that such contribution by each such other member shall be limited, where the group does not file a consolidated return, to that proportion of its total current and accumulated earnings or profits remaining after adjustment for its contribution deductible without regard to this subsection which the total prevented contribution bears to the total current and accumulated earnings or profits of all members of the group remaining after adjustment for all contributions deductible without

regard to this subsection. Contributions made under the preceding sentence shall be deductible under subsection (a) by the employer making such contribution, and, for the purpose of determining amounts which may be carried forward and deducted under the second sentence of subsection (a) in succeeding income years, shall be deemed to have been made by the employer on behalf of whose employees such contributions were made.

(c) The term "compensation otherwise paid or accrued during the taxable year to all employees" shall include any amount with respect to which an election under Section 415(c)(3)(C) of the Internal Revenue Code is in effect, but only to the extent that any contribution with respect to such amount is nonforfeitable.

SEC. 30.2. Section 26161 of the Revenue and Taxation Code is amended to read:

26161. (a) If any person fails to pay any liability imposed under this part at the time that it becomes due and payable, the amount (including any interest, additional amount, addition to tax, or penalty, together with any costs that may accrue in addition thereto) shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts of any liability disclosed on a return filed on or before the date payment is due, the day after such payment due date, upon which the amount is established on the records of the Franchise Tax Board;

(2) For amounts of any liability disclosed on a return filed after the date payment is due, the date the amount is established on the records of the Franchise Tax Board, except that in no case will it be prior to the day after such payment due date;

(3) For amounts of any liability determined under Section 25761 (pertaining to jeopardy assessments), the date the notice of the Franchise Tax Board's finding is mailed or issued;

(4) For all other amounts of liability, the date the assessment is final.

(c) For purposes of this section, "person" includes a corporation, a bank or an organization exempt from taxation under Section 23701.

SEC. 30.4. Section 2103 of the Streets and Highways Code is amended to read:

2103. At least 90 percent of the balance deposited to the credit of the Highway Users Tax Account in the Transportation Tax Fund by the 28th day of each month shall be apportioned by the State Controller by the second working day thereafter, except for June, in which case the apportionment shall be made the same day. These apportionments shall be made as provided for in Sections 2104 to 2122, inclusive. If information is not available to make the apportionment as required, the apportionment shall be made on the basis of the information of the previous month. Amounts not

apportioned shall be included in the apportionment of the subsequent month.

SEC. 31. Section 650 of the Unemployment Insurance Code is amended to read

650. "Employment" does not include services performed as a real estate, mineral, oil and gas, or cemetery broker or as a real estate, cemetery or direct sales salesperson by an individual if all of the following conditions are met:

(a) The individual is licensed under the provisions of Chapter 19 (commencing with Section 9600) of Division 3 of, or Part 1 (commencing with Section 10000) of Division 4 of, the Business and Professions Code or is engaged in the trade or business of primarily in-person demonstration and sales presentation of consumer products in the home or sales to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis, for resale (by the buyer or any other person) in the home or otherwise than from a retail or wholesale establishment.

(b) Substantially all of the remuneration (whether or not paid in cash) for the services performed by that individual is directly related to sales or other output (including the performance of services) rather than to the number of hours worked by that individual.

(c) The services performed by the individual are performed pursuant to a written contract between that individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to those services for state tax purposes.

SEC. 31.2. Section 1703 of the Unemployment Insurance Code is amended to read:

1703. (a) If any employing unit or other person fails to pay any amount imposed under this division at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates:

(1) For amounts disclosed on a return received by the director, the date of the notice by the director to the taxpayer of the amount due;

(2) For all other amounts, the date the assessment is final.

SEC. 31.3. Section 1852 of the Unemployment Insurance Code is amended to read:

1852. In addition to any other tax administration and collection procedures authorized in this division, the director may bring an action in the courts of this or any other state or of the United States, in the name of the State of California, to administer the provisions of, and to collect the amount of any delinquent contributions or taxes, together with penalties and interest, due under this code. No such

action shall be commenced later than:

(a) Three years after the date on which any amount due on a return filed by an employing unit or on an assessment made by the director becomes delinquent.

(b) Ten years after:

(1) The date on which a judgment is last entered under Article 5 of this chapter.

(2) The date on which a notice of state tax lien is last recorded or filed under Section 7171 of the Government Code.

SEC. 31.5. Section 1855 is added to the Unemployment Insurance Code, to read:

1855. (a) A civil action may be commenced at the request of the director in the name of the State of California to enjoin any individual or entity from conduct which, by solicitation, sale, or advertising, is inducing or otherwise attempting to persuade employers or employees, or potential employers or employees, to violate this code or to otherwise attempt to evade contributions or taxes provided for under this code by scheme, device, or similar activity. Any action under this section shall be brought in the Superior Court of the County of Sacramento or in the superior court of the county in which that individual or entity resides, has its principal place of business or has engaged in conduct subject to penalty under this code.

(b) In any action under subdivision (a), the court may enjoin the person from engaging in the conduct or in any other activity specified in subdivision (a), if the court finds both of the following:

(1) That the person has engaged in any conduct specified in subdivision (a).

(2) That injunctive relief is appropriate to prevent recurrence of that conduct.

(c) For purposes of the civil action referred to in paragraphs (a) and (b), the court may issue without bond, a temporary restraining order upon the filing of a statement, certified by the director, which contains all of the following:

(1) That a determination has been made that the individual or entity is engaging in conduct described in subdivision (a), accompanied by a detailed description of the reasons for the determination.

(2) That the activity of the individual or entity will result in the nonpayment of contributions or taxes required under this code and that the contributions or taxes would be otherwise payable.

(c) The director shall provide the court clerk with an exact copy of the certified statement upon filing, which copy will be endorsed or certified by the court clerk and returned to the director, along with a certified copy of the court's order. From the time of service of the endorsed or certified copy of the statement and order, that individual or entity shall be temporarily restrained from the activity set forth in the statement. That temporary restraining order will continue in effect unless dissolved after a hearing on a preliminary

injunction in the Superior Court of Sacramento County or the county in which the individual or entity resides, is its place of business, or has engaged in the conduct specified in the statement. That hearing or preliminary injunction shall be held under the rules of the superior court.

SEC. 32. Section 13057 of the Unemployment Insurance Code is amended to read:

13057. (a) If any person who is required by regulations prescribed under Section 13056—

(1) To include his or her identifying number in any return, statement, or other document, or

(2) To furnish his or her identifying number to another person, or

(3) To include in any return, statement, or other document made with respect to another person the identifying number of such other person, or,

(4) To furnish any other agency's taxpayer identifying number, fails to comply with such requirement at the time prescribed by such regulations, such person shall pay a penalty of five dollars ($5) for each such failure, unless such failure is due to reasonable cause.

(b) The penalty under this section shall be assessed and collected in the same manner as the tax.

SEC. 33. The amendments made by this act to Sections 7651, 7652, 7655, 7661, 7674, 7675, 7705, 7706. 8128, 8130, 8751, 8752, 8777, 8782, 8803, 9152, and 9155 of the Revenue and Taxation Code shall be operative with respect to liabilities incurred on or after November 1, 1983.

SEC. 34. The provisions of this act adding Article 1.1 (commencing with Section 7659) to Chapter 5 of Part 2, and Article 1.1 (commencing with Section 8756) to Chapter 4 of Part 3, of Division 2 of the Revenue and Taxation Code shall be operative with respect to liabilities incurred on or after November 1, 1983.

SEC. 35. The amendments to Sections 6006 and 6010 of the Revenue and Taxation Code shall be deemed to have become effective on September 1, 1983.

SEC. 36. Regulations adopted to implement the provisions of this act relating to the Revenue and Taxation Code, the Streets and Highways Code, and the Unemployment Insurance Code shall be adopted as emergency regulations. These emergency regulations shall not be subject to the review and approval of the Office of Administrative Law pursuant to the provisions of the Administrative Procedure Act provided for in Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. These emergency regulations shall become effective immediately upon filing with the Secretary of State.

SEC. 36.3. (a) Notwithstanding the repeal of Section 6359.4 of the Revenue and Taxation Code, any vending machine operator who, pursuant to a fixed term or fixed price contract entered into prior to July 21, 1983, or to a fixed term or fixed price contract

entered into pursuant to a firm bid submitted prior to July 21, 1983, or pursuant to an interim operating agreement covering the period prior to an award of a contract for which a firm bid was submitted prior to July 21, 1983, sells tangible personal property through a vending machine or machines shall not be considered a retailer but shall be considered a consumer of the tangible personal property sold through the vending machine or machines during the remaining term of the contract covering the machine or machines if the property is sold for fifteen cents ($0.15) or less and if it is sold at the same price charged for the property on July 21, 1983.

(b) For purposes of this section:

(1) "Fixed term contract" means a contract authorizing the sale of tangible personal property through a vending machine at a stated location or locations for a stated period of time, exclusive of any renewal periods other than the term in existence as of July 21, 1983.

(2) "Fixed price contract" means a contract providing for the receipt by the vending machine operator of a fixed percentage of the gross receipts from a vending machine or machines at a stated location or locations during the term of the contract.

(c) It is the intent of the Legislature that this section shall be deemed to apply to all sales of tangible personal property, as described in subdivision (a), sold by a vending machine operator through a vending machine on or after August 1, 1983.

(d) This section shall remain in effect until December 31, 1986, and on that date is repealed, unless a later enacted statute which is chaptered before that date deletes or extends that date.

SEC. 36.5. (a) Notwithstanding the amendment of Section 6359, and the repeal of Section 6359.2, of the Revenue and Taxation Code by Chapter 323 of the Statutes of 1983, the gross receipts from the sale of food products, as defined in Section 6359, (other than hot prepared food products) of any vending machine operator who is obligated to sell food products, through a vending machine for a fixed price pursuant to a contract entered into prior to July 21, 1983, or a contract entered into pursuant to a firm bid submitted prior to July 21, 1983, shall not be subject to the tax imposed by reason of the amendment of Section 6359, and the repeal of Section 6359.2, of the Revenue and Taxation Code.

(b) Provided, however that the gross receipts of any vending machine operator, qualifying under subdivision (a), from the sale at retail of food products, as defined in Section 6359 of the Revenue and Taxation Code, (other than hot prepared food products) shall be subject to the tax imposed by Section 6051 of the Revenue and Taxation Code to the same extent and in the same manner as provided in the Sales and Use Tax Law as it existed on July 20, 1983, when such food products are actually sold through a vending machine.

(c) For the purposes of this section, the vending machine operator shall not be deemed to be obligated for any period of time for which any party to the contract has the unconditional right to

terminate the contract upon notice, whether or not that right is exercised, or if the price of the item sold is increased on or after July 21, 1983.

(d) It is the intent of the Legislature that this section shall be deemed to apply to all sales of tangible personal property, as described in subdivisions (a) and (b), sold by a vending machine operator through a vending machine on or after August 1, 1983.

(e) This section shall remain in effect until December 31, 1986, and on that date is repealed, unless a later enacted statute which is chaptered before that date deletes or extends that date.

SEC. 37. The amendments made by this act to Sections 17024.5, 17042.5, 17053.7, 17063.2, 17220, 17274, 18173, 18586.7, 18681.1, 18802.7, 18881, 19401, 19406, and 19414 of the Revenue and Taxation Code shall be applied in the computation of taxes for taxable years beginning on or after January 1, 1983.

SEC. 38. The amendments made by this act to Sections 23051.5, 24330, 24357.8, 24483.5, 24514, 24562, 24603, and 26161 of the Revenue and Taxation Code shall be applied in the computation of taxes for income years beginning on or after January 1, 1983.

SEC. 38.5. Notwithstanding Section 2229 of the Revenue and Taxation Code, the requirements of that section do not apply to the exemption of property for purposes of ad valorem property taxation provided by Section 217.1 of the Revenue and Taxation Code, as added by this act. No appropriation is made by this act and the state shall not reimburse any local agency for any property tax revenues lost by it pursuant to this act.

SEC. 39. 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, not otherwise funded or reimbursed by provisions under this act, 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. 40. 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. 41. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to implement the provisions of Chapter 498 of the Statutes of 1983 as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1103

An act to add and repeal Section 1255.4 of the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 27, 1983]

I am deleting the appropriation from the Unemployment Insurance Fund contained in Section 2 of Senate Bill No. 79.

Federal law prohibits the use of this fund for anything other than the payment of unemployment insurance entitlements An appropriate source of funding should be sought when the Legislature returns in January

With this deletion, I approve Senate Bill No. 79.

GEORGE DEUKMEJIAN

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

SECTION 1. Section 1255.4 is added to the Unemployment Insurance Code, to read:

1255.4. The recovery of any benefit overpayment for any week beginning after April 1, 1980, but not after November 1, 1980, based upon application of subdivision (a) of Section 1255.3 to any United States military pension based upon or arising out of medical disability, shall, upon any request made before January 1, 1985, by the individual who received the overpayment, be deemed to be against equity and good conscience within the meaning of subdivision (b) of Section 1375.

This section shall remain in effect only until January 1, 1985, and on that date is repealed.

SEC. 2. The sum of two thousand three hundred eleven dollars ($2,311) is hereby appropriated from the Unemployment 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 1104

An act to amend Section 8801 of, and to add Section 8835.5 to, the Government Code, and to amend Section 650 of the Unemployment Insurance Code, relating to fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 27, 1983.]

I am deleting the $250,000 appropriation contained in Section 2 of Assembly Bill No. 2130

The Office of Economic Opportunity and the Employment Training Panel has funds available which may be allocated to minority-controlled radio stations. These

sources of funding should be explored before considering appropriations from the General Fund

GEORGE DEUKMEJIAN, Governor

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

SECTION 1. It is the intent of the Legislature in this act to make certain changes in the law necessary to implement the Budget Trailer Bill.

SEC. 2. *Section 8801 of the Government Code is amended to read:*

8801. The Legislature finds and declares as follows:

(a) It is the policy of this state to support and encourage the provision of a high-quality educational, cultural, and public affairs program service designed to meet the needs of the citizens of this state and its various localities.

(b) It is the policy of this state that in so supporting and encouraging such a program service, all decisions affecting the content and scheduling of such service are the sole responsibility of each licensee and shall be free from improper interference.

(c) Existing public broadcasting stations represent a valuable public resource, the facilities, skills, and talent of which should be utilized to the maximum feasible extent in carrying out the purposes of this chapter.

(d) Minority-controlled public radio stations in California serve their respective communities as unique information resources providing news, information and diversity of programing and viewpoints, including bilingual and cultural services, that enrich the lives of all Californians.

(e) Minority-controlled public radio stations in California serve their respective communities as educational resources providing training and employment opportunities for those who would otherwise not have access to public broadcasting.

(f) Minority-controlled public radio stations in California serve many of the specialized needs of minority and low-income listener audiences who are less affluent than the listener audiences of other public radio stations and, therefore, unable to financially support said minority-controlled public radio stations.

(g) The continued growth and development of minority-controlled public radio stations as vital parts of the state's public broadcasting system is in the best interests of all Californians.

SEC. 3. *Section 8835.5 is added to the Government Code, to read:*

8835.5.. There is hereby appropriated to the California Public Broadcasting Commission the sum of two hundred fifty thousand dollars ($250,000) from the General Fund to the California Public Broadcasting Fund for direct grants in fiscal year 1983–84 to the five minority-controlled and operated public radio stations that, as of January 1, 1983, have been qualified by the commission in California to assist in their development, operation, interconnection, and programing.

SEC. 4. Section 650 of the Unemployment Insurance Code is amended to read:

650. "Employment" does not include services performed as a real estate, mineral. oil and gas, or cemetery broker or as a real estate, cemetery or direct sales salesperson by an individual if all of the following conditions are met:

(a) The individual is licensed under the provisions of Chapter 19 (commencing with Section 9600) of Division 3 of, or Part 1 (commencing with Section 10000) of Division 4 of, the Business and Professions Code or is engaged in the trade or business of primarily inperson demonstration and sales presentation of consumer products in the home or sales to any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis, for resaleby the buyer or any other person in the home or otherwise than from a retail or wholesale establishment.

(b) Substantially all of the remuneration (whether or not paid in cash) for the services performed by that individual is directly related to sales or other output (including the performance of services) rather than to the number of hours worked by that individual.

(c) The services performed by the individual are performed pursuant to a written contract between that individual and the person for whom the services are performed and the contract provides that the individual will not be treated as an employee with respect to those services for state tax purposes.

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 continued operation of minority-controlled and operated public radio stations in California depends upon state financial assistance, and recent budget cuts in state funding for public broadcasting stations will have a disproportionately adverse impact upon these stations.

CHAPTER 1105

An act to amend Sections 436.4, 436.8, 437.7, 437.10, 437.11, 437.15, 438.2, 438.3, 438.4, 438.5, 438.8, 438.9, and 1255 of, to add Sections 439.2 and 1255.5 to, and to repeal Section 437.13 of, the Health and Safety Code, relating to health facilities.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 436.4 of the Health and Safety Code is amended to read:

436.4. The office shall implement the loan insurance program for the construction, improvement, and expansion of public and nonprofit corporation health facilities so that, in conjunction with all other existing facilities, the necessary physical facilities for furnishing adequate health facility services will be available to all the people of the state.

SEC. 1.5. Section 436.8 of the Health and Safety Code is amended to read:

436.8. A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) When the borrower is a nonprofit corporation, such loan shall be secured by a mortgage, first lien, trust indenture, or such other security agreement as the office may require subject only to such conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office. When the borrower is a political subdivision, such loan may be evidenced by a duly authorized bond issue. A loan to a local hospital district or county may meet the requirement of this subdivision by either method.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with such additional endorsements as the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office under Section 436.4. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made. The office may not insure a loan for a health facility which is not needed as determined by the state plan developed under the authorization of Section 436.4.

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the

borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate which such bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the principal of the loan.

(h) The loan shall contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an amount equal to 90 percent of the total construction cost. Where the borrower is a political subdivision, the office may fully insure loans equal to the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k) A certificate of need or certificate of exemption has been issued for the project to be financed pursuant to Part 1.5 (commencing with Section 437) of this division, unless the project is not subject to such requirement.

(*l*) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, which shall be utilized during the state review of a loan guarantee application:

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project.

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including improvements, then the acquisition cost shall be deemed in excess of fair market value.

In determining financial feasibility of projects of counties pursuant to this section, the office shall take into consideration any assistance for the project to be provided under Section 16715 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the office endeavor to assist counties in whatever ways are possible to arrange loans which will meet the requirements for insurance prescribed by this section.

SEC. 2. Section 437.7 of the Health and Safety Code is amended

to read:

437.7. The Advisory Health Council shall evaluate and shall designate annually no more than one area health planning agency for any area of the state designated by the council, provided such agency shall be incorporated as a nonprofit corporation and be controlled by a board of directors consisting of a majority representing the public and local government as consumers of health services with the balance being broadly representative of the providers of health services and the health professions, or alternatively be a health systems agency established pursuant to Public Law 93-641. The functions of area health planning agencies shall be the following:

(a) To review information on utilization of hospitals and related health facilities.

(b) To develop area plans to be used for the determination of community need and desirability of projects specified in Section 437.10, consistent with the regulations adopted by the Office of Statewide Health Planning and Development pursuant to Section 437.8. Each such plan shall become effective upon a determination by the council that the plan is in conformance with regulations adopted pursuant to Section 437.8. The council shall integrate all such area plans into a single Statewide Health Facilities and Services Plan, which shall become effective upon formal adoption by the council.

(c) To conduct public meetings in which providers of health care and consumers will be encouraged to participate.

(d) Area health planning agencies shall comply with the following requirements:

(1) The governing body of the agency shall, to the extent feasible, be composed of individuals representative of the major social, economic, linguistic, and racial populations, and geographic areas, within the area served by the agency.

(2) The agency shall hold public meetings and hearings only after reasonable public notice. Such notice shall, to the extent feasible, be publicized directly to those who, as determined by the director, are medically underserved and are in other ways denied equal access to good medical care.

(3) The agency shall file with the Advisory Health Council an affirmative action employment plan approved by the office.

Area health planning agencies may divide their areas into local areas for purposes of more effective health facility planning, with the approval of the Advisory Health Council. These local areas shall be of a geographic size and contain adequate population to insure a broad base for planning decisions. Each local area shall contain a local health planning agency which shall meet the requirements of this section.

An organization which meets the requirements of this section may make application to its area health planning agency for designation as a local health planning agency for a designated area. Within 45 days after a complete application for designation has been received, the area agency shall reach a decision concerning the application.

Each area health planning agency existing on the operative date of amendments to this section enacted during the 1976 portion of the 1975–76 Regular Session of the Legislature shall continue to function as an area planning agency pursuant to this part, until such time as one or more designated health systems agencies are fully operational, as determined by the Advisory Health Council in the area served, or formerly served, by the respective area health planning agency.

If the Advisory Health Council determines that an area health planning agency approved under this section is dissolved or unable to carry out the functions required by this part, the office shall fulfill the responsibilities of an area health planning agency pursuant to this part in the area until such time as another area health planning agency is designated by the Advisory Health Council for such area and becomes fully operational.

Adoption of regulations setting forth administrative procedures for area and local area health planning agencies shall be made by the office pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 3. Section 437.10 of the Health and Safety Code is amended to read:

437.10. Except as otherwise exempted by Section 437.11 or this section, projects requiring a certificate of need issued by the Office of Statewide Health Planning and Development are the following:

(a) Construction of a new health facility, relocation of a health facility or specialty clinic on a different site or adjacent to the site on which the facility is located, the increase of bed capacity in an existing health facility, the conversion of an entire existing health facility from one license category to another, the conversion of a health facility's existing beds from any bed classification set forth in Section 1250.1 to skilled nursing beds, psychiatric beds, or intermediate care beds, and the conversion of skilled nursing beds, psychiatric beds, or intermediate care beds to any other bed classification set forth in Section 1250.1, except for skilled nursing beds or intermediate care beds licensed as of March 1, 1983, as part of a general acute care hospital. The conversion may not exceed during any three-year period five percent of the existing beds of the bed classification to which the conversion is made.

A health facility may use beds in one bed classification which, pursuant to the facility's license, have been designated in another bed classification, if all of these bed classification changes do not at any time exceed 5 percent of the total number of the facility's beds as set forth by the facility's license and if that use meets the requirements of Chapter 2 (commencing with Section 1250) of Division 2. In addition, a facility may use an additional 5 percent of its beds in this manner if the director finds that seasonal fluctuations justify it.

For purposes of this subdivision, "adjacent" means real property within a 400-yard radius of the site on which a health facility or specialty clinic currently exists.

(b) Establishment of a new specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, a project by a health facility for expanded outpatient surgical capacity, the conversion of an existing primary care clinic to a specialty clinic, or the conversion of an existing specialty clinic to a different category of specialty-clinic licensure. It shall not constitute a project and no certificate of need shall be required for the establishment of a primary care clinic, as defined in subdivision (a) of Section 1204, the conversion of an existing specialty clinic to a primary care clinic, or the conversion of an existing primary care clinic to a different category of primary-care-clinic licensure. Any capital expenditure involved in the establishment of a primary care clinic shall also not constitute a project, except as provided in subdivision (d).

(c) The establishment of a new special service delineated in subdivision (a), (b), (c), (e), (f), (g), or (h) of Section 1255, or the establishment by a specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, of a new special service identified by or pursuant to Section 1203.

(d) The initial purchase or lease by a clinic subject to licensure under Chapter 1 (commencing with Section 1200) of Division 2, of diagnostic or therapeutic equipment with a value in excess of one million dollars ($1,000,000) in a single fiscal year, or for which the cumulative cost exceeds such amount in more than one fiscal year. For purposes of this subdivision, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the office, shall be considered together.

(e) Any project requiring a capital expenditure for a specialty clinic as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, or for the services, equipment or modernization of a specialty clinic in excess of one million dollars ($1,000,000) in the current fiscal year or cumulation to an expenditure of one million dollars ($1,000,000) in the same fiscal year or subsequent fiscal years for a single project.

The threshold exemptions from certificate-of-need requirements provided for in this subdivision shall not apply to projects for expanded outpatient surgical capacity.

For the purposes of this subdivision, a "capital expenditure" shall mean any of the following:

(1) An expenditure, including an expenditure for a construction project undertaken by the specialty clinic as its own contractor, which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance and which exceeds one million dollars ($1,000,000). The cost of studies, surveys, legal fees, land, offsite improvements, designs, plans, working drawings, specifications and other activities essential to the acquisition, improvement, expansion, or replacement of the physical plant and equipment with respect to which such expenditure is made shall be included in determining whether such cost exceeds one million dollars ($1,000,000). Where the estimated cost of a

proposed project, including cost escalation factors appropriate to the area in which the project is located, is, within 60 days of the date on which the obligation for such expenditure is incurred, certified by a licensed architect or engineer to be one million dollars ($1,000,000) or less, such expenditure shall be deemed not to exceed one million dollars ($1,000,000) regardless of the actual cost of such project. However, in any such case where the actual cost of the project exceeds one million dollars ($1,000,000), the specialty clinic on whose behalf such expenditure is made shall provide written notification of such cost to the state department not more than 30 days after the date on which such expenditure is incurred. Such notification shall include a copy of the certified estimate.

(2) The acquisition, under lease or comparable arrangement, or through donation, of equipment for a specialty clinic, the expenditure for which would have been considered a capital expenditure if the person had acquired it by purchase. For the purposes of this paragraph, "donation" shall not include a bequest.

(3) Any change in a proposed capital expenditure which itself meets the criteria set forth in this subdivision.

A "capital expenditure" shall include the total cost of the proposed project as certified by a licensed architect or engineer based on preliminary plans or specifications and concurred in by the state department. For the purposes of this subdivision, "project" shall not include the purchase of real property for future use or the transfer of ownership, in whole or part, of an existing clinic or the acquisition of all or substantially all of the assets or stock thereof, or the construction, modernization, purchase, lease, or other acquisition of parking lots or parking structures, telephone systems, and nonclinical data-processing systems.

For the purposes of this subdivision, "modernization" means the alteration, expansion, repair, remodeling, replacement, or renovation of existing buildings, including initial equipment thereof, and the replacement of equipment of existing buildings.

The office shall annually adjust the dollar thresholds set forth in subdivisions (d) and (e) of this section to reflect changes in the cost of living, as determined by the Department of Finance, using 1981 as the base year. Notwithstanding the amount of such dollar thresholds, in the event Congress increases or repeals the amount or amounts of such thresholds, the dollar thresholds set forth in subdivisions (d) and (e) of this section and in Section 437.13 shall be the highest amount or amounts permitted by Public Law 93-641, as amended, or one million dollars ($1,000,000), whichever is less, on the date such congressional action is effective.

SEC. 4. Section 437.11 of the Health and Safety Code is amended to read:

437.11. (a) The office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of exemption for those projects which were not previously subject to review under Section 437.7 prior to the effective date of this section

where the applicant has shown and the office director has found all of the following:

(1) The applicant has, prior to the effective date of this section, committed or incurred a financial obligation, including any obligation payable by force account, which is certified by a licensed architect or engineer to be 10 percent of the cost of the total project, or seventy-five thousand dollars ($75,000), whichever is less.

(2) The project cannot be terminated without substantial economic loss to the applicant.

(3) Except with respect to projects set forth in subdivision (d) of Section 437.10, the project was commenced prior to the effective date of this section and is being diligently pursued to completion.

(4) The applicant has filed a notice of such project with the office on forms supplied by the office within 60 days of the effective date of this section.

For the purposes of this subdivision, "project" shall mean any project set forth in Section 437.10, and the term "financial obligation" shall include cost factors set forth in the definition of "capital expenditure" in Section 437.10.

Within 120 days of the effective date of this section, the office shall determine in public hearing which applications are entitled to an exemption under this subdivision.

(b) In addition, the office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for those projects where the applicant has shown and the office director has found one of the following:

(1) The project is necessary solely to replace health care services that are no longer available at the facility because of a disaster or other emergency.

(2) The project is solely for the purpose of complying with requirements of law or regulations.

(3) The project was the subject of an application submitted to an area health planning agency prior to the effective date of this section. Such applications shall be processed and decided in the manner prescribed by this part as it existed immediately prior to the operative date of this section, except that any petition for appeal of a decision or lack of decision of such an area health planning agency rendered after the effective date of this section shall be made directly to the Advisory Health Council.

(4) The project is to add not more than 10 percent of licensed bed capacity or 10 beds, whichever is less, to an existing general acute care hospital, an existing acute psychiatric hospital, an existing special hospital, an existing general acute care/rehabilitating hospital, or an existing chemical dependency recovery hospital, where the applicant has shown and the office director has found that:

(A) The applicant hospital has not been granted a certificate of exemption pursuant to this provision or pursuant to Section 437.112, as Section 437.112 existed on January 1, 1982, within the last preceding 24 months.

(B) The applicant hospital has had an occupancy rate for the classification of beds to be added, and for the facility as a whole, for the preceding 12-month period, of not less than 85 percent.

(C) The facility is accessible to persons for whom the cost of care is reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code. In the case of an acute psychiatric hospital, the showing required by this subparagraph shall be limited to those categories of patients for whom acute psychiatric hospitals are eligible to receive reimbursement under Chapter 7 (commencing with Section 1400) of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) A certificate of exemption issued pursuant to this section or Section 1268 shall for all purposes have the same effect as a certificate of need issued pursuant to this part.

SEC. 5. Section 437.13 of the Health and Safety Code is repealed.

SEC. 6. Section 437.15 of the Health and Safety Code is amended to read:

437.15. (a) It is the intent of the Legislature that projects for a general acute care hospital designated as a sole community provider and licensed for less than 100 beds, projects for the establishment or expansion of skilled nursing facilities or intermediate care facilities, and projects for skilled nursing beds or intermediate care beds in health facilities other than skilled nursing or intermediate care facilities be processed as expeditiously as possible, consistent with the purposes of this part.

(b) In reviewing an application for projects for a general acute care hospital designated as a sole community provider and licensed for less than 100 beds, a project for a skilled nursing facility, a project for an intermediate care facility, or a project for skilled nursing beds or intermediate care beds in health facilities, the office director shall consider only need, expected utilization and financial feasibility, compliance with applicable laws and regulations, and whether the proposed facility will enhance access to the population to be served.

(c) The following exceptions to the procedural provisions of this part shall apply to applications for projects for a general acute care hospital designated as a sole community provider and licensed for less than 100 beds, projects for the establishment or expansion of skilled nursing facilities or intermediate care facilities, or a project for skilled nursing beds or intermediate care beds in health facilities other than skilled nursing or intermediate care facilities:

(1) The notification of intent specified in Section 438.3 shall not be required prior to the filing of an application.

(2) Upon a determination that an application is complete pursuant to Section 438.2, the office shall promptly publish notice in a newspaper of general circulation in the geographical area to be served by the project. Such notice shall describe the project and provide that any affected person may request, in writing, that the office hold a public hearing in the course of its review. The notice shall state the address at which such request shall be made and the

time period in which it shall be made. Such written request shall be based upon the applicable review criteria and shall specify the criteria upon which it is based.

(3) No hearing need be held by the office in the course of its review unless ordered by the office within 30 calendar days after the application is determined to be complete. In those cases in which no hearing is required to be held, the office shall, within 30 calendar days after the application is determined to be complete, issue a decision approving the project in its entirety or with such modifications or conditions as have been agreed to in writing by the office and the applicant.

(d) The office shall amend its regulations and application forms as may be necessary to effectuate the purposes of this section.

SEC. 7. Section 438.2 of the Health and Safety Code is amended to read:

438.2. (a) The office, within 15 days of its receipt of an application for a certificate of need submitted pursuant to Section 438, shall make a determination as to whether the application is complete. If the office determines that the applicant has not submitted an application which adequately addresses the information requirements of the application form, it shall provide the applicant a written notification of incompleteness specifying the additional information required to render the application complete. After receipt of this additional information, the office, within 15 days, shall make a determination as to whether the application is complete.

(b) If, after review of additional information pursuant to subdivision (a), the office determines that the application is still incomplete, it shall provide the applicant a written notification of incompleteness, advising the applicant of the additional information needed and the options available to the applicant to render the application complete. Following receipt of notification, the applicant shall exercise one of the following options:

(1) Submit the additional information required by the office.

(2) Request in writing, with or without submitting the additional information, that the review commence notwithstanding the determination of incompleteness.

Upon receipt of a written statement requesting that the review commence, the application shall be deemed complete on the fifth business day following receipt unless the office determines, and notifies the applicant in writing, by the fifth business day, that the lack of information is so material that it would render meaningful analysis of the application impossible and that the application is therefore incomplete. Such a determination shall be based solely on the failure to provide information specifically requested by the application form.

If the applicant submits the requested additional information and does not submit a written statement requesting the office to commence the review notwithstanding its determination of

incompleteness, the office, within 15 days after receipt of the additional information, shall make a determination as to whether the application is complete.

Upon the receipt of any additional notifications of incompleteness, the applicant shall exercise one of the options enumerated in paragraphs (1) and (2). The office, in its second or subsequent completeness inquiry, shall not request information beyond the scope of the preceding request.

(c) If the office does not give the notification of incompleteness within the 15-day period required for review of completeness, the application shall be deemed complete on the 15th day following the receipt of the material submitted and the office shall then proceed with its review.

(d) The office shall publish notice of the commencement of the review promptly after the application review process commences pursuant to subdivision (b) or (c).

(e) A completed application may be amended or withdrawn by the applicant at any time without prejudice, but any amendment to an application, except as the office and the applicant may otherwise agree, shall cause the amended application to be treated as a new application for purposes of the time limits prescribed by this part and for the determination of the amount of the fee.

(f) A filed application shall be a public document and shall be available for inspection at the offices of the area health planning agency and the office. A copy of any filed application shall be furnished to any person upon request and payment of a reasonable fee, to be established by the office in an amount sufficient to defray the costs of reproduction.

(g) Applications filed by any state agency or the Board of Regents of the University of California shall be exempt from a filing fee.

SEC. 8. Section 438.3 of the Health and Safety Code is amended to read:

438.3. At least 30 calendar days prior to the filing of an application for a certificate of need under Section 437.10, or the filing of an application under Section 437.13, the applicant shall notify the office of its intent to apply for a certificate of need. The office may consult with the applicant on the proposed project.

The office may refuse to accept a certificate-of-need application where the applicant has failed to file a notification of intent to apply for a certificate of need pursuant to this section. However, if a certificate of need is issued, it shall not be invalidated on the sole basis of failure of the applicant to notify the office within the time required by this section.

SEC. 9. Section 438.4 of the Health and Safety Code is amended to read:

438.4. The office shall transmit a copy of each application for a certificate of need determined by it to be complete, or otherwise deemed complete pursuant to Section 438.2, to the appropriate area health planning agency. The area health planning agency may, at its

discretion, informally review the application and provide comment on it at the public hearing held pursuant to Section 438.5, if such a public hearing is held. If an area health planning agency intends to provide comment on an application at a public hearing, it shall provide notice to the applicant and to the state 20 days in advance of making a comment. Such a comment shall be deemed to have given the area health planning agency party status.

SEC. 10. Section 438.5 of the Health and Safety Code is amended to read:

438.5. (a) Within 60 calendar days of the receipt of the complete application, or an application otherwise deemed complete pursuant to Section 438.2, the Office of Statewide Health Planning and Development shall do one of the following:

(1) Approve the application. The office may approve the application pursuant to this subdivision with modifications or conditions, provided that the applicant agrees in writing to any such modifications or conditions.

(2) Order a hearing if the office determines that substantial questions exist as to the eligibility of the proposed project for certificate-of-need approval. Except as otherwise provided in this section, the hearing shall be held in the health service area served by the applicant.

(b) The office shall order a hearing by the service of a copy of the order on the applicant and the Office of Administrative Hearings. The order shall include the intended position of the Division of Certificate of Need of the office. Upon receipt of the order, the Office of Administrative Hearings shall promptly consult with the parties to the hearing in order to determine the time and place of hearing. Except as otherwise agreed by the parties and the Office of Administrative Hearings, the hearing shall commence within 20 days of the date of the order. Upon the scheduling of the hearing, the Office of Administrative Hearings shall promptly serve notice of the date, location, and time of the hearing upon the parties to the hearing. The Office of Administrative Hearings shall also publish a notice of the date, location, and time of the hearing in at least one newspaper of general circulation in the health service area served by the applicant. Such notice shall also include the name and address of the applicant, the nature of the proposed project, and other information, deemed relevant by the Office of Administrative Hearings.

(c) The hearing shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except as otherwise provided in this part. The hearing shall be conducted by a hearing officer assigned by the Office of Administrative Hearings who shall rule on the admission and exclusion of evidence and may exercise all other powers relating to the conduct of the hearing. With the concurrence of the parties to the hearing, law and motion matters pertaining to the hearing may be heard by the hearing officer in a

location other than the geographic location of the hearing.

(d) The hearing shall conclude within 60 calendar days after commencement of the hearing unless one of the following occurs:

(1) The applicant agrees to extend the time for conclusion of the hearing.

(2) The hearing is ongoing and continuing during consecutive business days, in which case it shall be concluded as soon as reasonably practicable thereafter.

(e) Within 10 days after the conclusion of the hearing, the hearing officer shall render a proposed decision supported by findings of fact, based solely upon the record of the hearing, and conclusions of law. The proposed decision, findings of fact, and conclusions of law shall be served upon the parties to the hearing.

(f) The director shall make a final decision on an application within 10 calendar days after issuance of the proposed decision by the hearing officer. The decision shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually agreed upon by the applicant and the office. The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of such certificate of need.

(g) Notice of the substance of the office's decision shall be published in a newspaper of general circulation within the health service area served by the applicant, within 10 calendar days following the decision.

SEC. 11. Section 438.8 of the Health and Safety Code is amended to read:

438.8. Any decision issued pursuant to Section 438.5 shall take effect 30 calendar days following its issuance unless within such time the applicant files a petition for appeal with the Advisory Health Council. The Advisory Health Council shall render a decision on each such appeal, and appeal shall be by right. The filing of a petition shall operate to suspend and stay the decision by the Office of Statewide Health Planning and Development pending the hearing and entry of a final decision.

A petition for appeal shall be filed with the council within 30 calendar days following the date a decision is issued by the office. The petition shall be filed in the form and manner as prescribed by the office. As soon as such a petition is filed, the council shall be polled and respond in writing to determine within 30 calendar days whether it will take oral argument on such petition. The council shall order a hearing if at least seven of the members certify in writing that they agree to take oral argument. If the council orders a hearing, the hearing shall be held within 60 calendar days of the date of the council's order. If a hearing is denied, a statement of the reasons for denial shall be issued by the council which shall be sent to the applicant, the office, and persons requesting such a statement.

The council shall cause to be published in a newspaper of general circulation in the area in which the proposed project is to be located,

at least 30 calendar days prior to the appeal hearing, a notice summarizing the application and the office's decision, with such particulars as the council may deem necessary, including, but not limited to, the name and address of the applicant, the type of project, and the date, time and place of the appeal hearing. In addition, the council shall send copies of such notice to the applicant, the office, and any person requesting such a notice.

Parties to the appeals proceedings may only be the applicant and the office. Any other person shall have the right to appear and be heard at the appeal hearing, but shall not be a party to the proceedings.

The appeal hearing may be held by the council or by a hearing officer, as ordered by the council. If there is a hearing officer, he shall rule on the admission and exclusion of evidence. The council shall exercise all other powers relating to the conduct of the hearing, but may delegate any or all of such powers to the hearing officer. Except as otherwise provided in this part, appeal hearings shall conform to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, except that the office may use its own hearing officer.

SEC. 12. Section 438.9 of the Health and Safety Code is amended to read:

438.9. Grounds for appeal pursuant to Section 438.8 shall be limited to the following:

(a) The office or the hearing officer violated the review procedures prescribed by this part.

(b) The decision of the office is not supported by substantial evidence.

(c) The office or hearing officer has otherwise acted in an arbitrary and capricious manner.

SEC. 13. Section 1255 of the Health and Safety Code is amended to read:

1255. In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (c) of Section 1277 to offer special services including, but not limited to, the following:

(a) Radiation therapy department.
(b) Burn center.
(c) Emergency center.
(d) Hemodialysis center (or unit).
(e) Psychiatric.
(f) Intensive-care newborn nursery.
(g) Cardiac surgery.
(h) Cardiac catheterization laboratory.
(i) Renal transplant.
(j) Such other special services as the department may prescribe by regulation.

A general acute care/rehabilitation hospital may be approved in accordance with subdivision (b) of Section 1277 to offer special

services not requiring surgical facilities.

The state department shall adopt standards for special services and such other regulations as may be necessary to implement this section. For cardiac catheterization laboratory service, the state department shall, at a minimum, adopt standards and regulations which specify that only diagnostic services, and which diagnostic services, may be offered by an acute care hospital or a multispecialty clinic as defined in subdivision (*l*) of Section 1206 which is approved to provide cardiac catheterization laboratory service but is not also approved to provide cardiac surgery service, together with the conditions under which such cardiac catheterization laboratory service may be offered.

A cardiac catheterization laboratory service shall be located in a general acute care hospital which is either licensed to perform cardiovascular procedures requiring extracorporeal coronary artery bypass, which meets all of the applicable licensing requirements relating to staff, equipment, and space for service; or shall, at a minimum, have a licensed intensive care service, coronary care service and maintain a written agreement for the transfer of patients to a general acute care hospital which is licensed for cardiac surgery or shall be located in a multispecialty clinic as defined in subdivision (*l*) of Section 1206. The transfer agreement shall include protocols which will minimize the need for duplicative cardiac catheterizations at the hospital in which the cardiac surgery is to be performed.

SEC. 14. Section 439.2 is added to the Health and Safety Code, to read:

439.2. Health facilities and clinics shall annually report to the office all of the following information on forms supplied by the office:

(a) A current inventory of beds and services.

(b) Utilization data by bed type and service.

(c) Acquisitions of diagnostic or therapeutic equipment during the reporting period with a value in excess of five hundred thousand dollars ($500,000).

(d) Commencement of projects during the reporting period which require a capital expenditure for the facility or clinic in excess of one million dollars ($1,000,000).

SEC. 15. Section 1255.5 is added to the Health and Safety Code, to read:

1255.5. For purposes of Section 1255, the following definitions shall apply:

(a) "Cardiac catheterization" includes an intravascular insertion of a catheter into the heart for the primary definition and diagnosis of an anatomic cardiac lesion. For the purposes of this definition, the insertion of a Swan-Ganz thermodilution cardiac output catheter, a venous line, and a temporary pacemaking electrode catheter are excluded.

(b) "Cardiac surgery" means surgery on the heart or great vessels requiring a thoracotomy and extracorporeal circulation.

(c) "Cardiac surgery service" means a program of a general acute care hospital which has the capability of performing cardiac catheterizations and cardiac surgery as defined in this section. Under no circumstances shall there exist in a general acute care hospital a cardiac surgery service without a cardiac catheterization laboratory service.

(d) "Cardiac catheterization laboratory service" means a program of a general acute care hospital which has the capability of performing cardiac catheterization. Cardiac catheterization laboratory service does not include pediatric cardiac catheterization laboratory service. Cardiac catheterizations shall be performed in dedicated laboratories. Under no circumstances shall cardiac catheterizations be performed outside of a general acute care hospital or a multispecialty clinic as defined in subdivision (*l*) of Section 1206 which qualifies for such definition as of March 1, 1983.

(e) "Pediatric cardiac surgery service" means a program of a general acute care hospital which has the capability of performing cardiac catheterization and cardiac surgery as defined in this section for the diagnosis and treatment of congenital defects in children. Cardiac catheterization for pediatric patients shall be performed only in a general acute care hospital that has the capability to perform cardiac surgery on pediatric patients.

(f) "Intensive care newborn nursery services" means the provision of comprehensive and intensive care for all contingencies of the newborn infant including intensive, intermediate, and continuing care. Policies, procedures, and space requirements for intensive, intermediate, and continuing care services shall be based upon the standards and recommendations of the American Academy of Pediatrics Guidelines for Perinatal Care, 1983.

(g) Notwithstanding subdivision (d), a health facility which, as of December 31, 1983, was approved by the state department to offer a cardiac catheterization laboratory service in either a dedicated or multipurpose laboratory shall not be prevented from continuing to offer the cardiac catheterization laboratory service in either a dedicated or multipurpose laboratory after January 1, 1984.

SEC. 16. The standards and regulations with respect to cardiac catheterization laboratory services which are required by the amendments to Section 1255 of the Health and Safety Code made by this act shall be adopted as emergency regulations no later than February 1, 1984.

SEC. 17. The amendments to Sections 437.7, 437.15, 438.2, 438.3, 438.4, 438.5, and 438.8 of the Health and Safety Code, relating to the elimination of the participation of area health planning agencies in the certificate-of-need or certificate-of-exemption process, or relating to the elimination of notices to or party status provided to area health planning agencies, and the amendments to Section 437.10 of the Health and Safety Code, relating to the elimination of certificate-of-need review of certain projects which were subject to review under Section 437.10 prior to January 1, 1984, which are made

by the act which enacts this section shall become operative unless the federal Department of Health and Human Services makes a formal finding that the state is out of conformity with federal health planning law and the Director of the Office of Statewide Health Planning and Development determines, by regulation, that the amendments would result in substantial reductions in allotments, grants, loans, or loan guarantees made by the federal government to entities within the state. The office director shall notify each house of the Legislature of the adoption or repeal of any regulations pursuant to this section.

SEC. 18. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1106

An act to add and repeal Section 5705.3 of the Welfare and Institutions Code, relating to mental health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 5705.3 is added to the Welfare and Institutions Code, to read:

5705.3. (a) For the 1983–84 and 1984–85 fiscal years, in counties with a population of 100,000 to 110,000, as recorded in the 1980 federal census, the cost requirement for local financial participation pursuant to Section 5705 shall be waived for all programs except local hospital inpatient and state hospital services. The cost of state hospital services shall be financed on the basis of 90 percent state funds and 10 percent county funds for these counties during the 1983–84 and 1984–85 fiscal years.

(b) This section shall remain in effect only until July 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1985, 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 take effect for the 1983–84 fiscal year and thus alleviate

immediate fiscal constraints for county mental health programs, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1107

An act to add Chapter 17.6 (commencing with Section 9300) to Division 3 of the Business and Professions Code, relating to polygraph examiners, and making an appropriation therefor.

[Became law without Governor's signature. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Chapter 17.6 (commencing with Section 9300) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 17.6. POLYGRAPH EXAMINERS

Article 1. General Provisions

9300. This chapter shall be known and may be cited as the Polygraph Examiners Act.

9301. (a) It is the purpose of this chapter to regulate all persons who conduct polygraph examinations through the use of instrumentation as defined in subdivision (g) of Section 9302.

(b) The provisions of this chapter shall be liberally construed to regulate all persons described in subdivision (a). No person who purports to be able to determine the truthfulness of statements by use of a polygraph instrument described in subdivision (g) of Section 9302 shall be exempted from the provisions of this chapter because of the terminology that he or she may use to refer to himself or herself, to his or her instruments or mechanical devices, or to describe the nature of his or her services.

9302. As used in this chapter, unless the context requires otherwise, the following terms have the following meanings:

(a) "Director" means the Director of Consumer Affairs.

(b) "Board" means the Polygraph Examiners Board.

(c) "Person" means any individual, firm, association, partnership, or corporation.

(d) "Intern" means a person licensed under this chapter to conduct polygraph examinations in an internship.

(e) "Internship" means the study of an intern under the supervision of a general licensed examiner in accordance with the course of study prescribed by the director at the commencement of that study.

(f) "Polygraph examiner" means a person who purports to be able to determine the truthfulness of statements through the use of a

polygraph instrument.

(g) "Polygraph instrument" means an instrument capable of at least recording visually, permanently, and simultaneously the respiratory, cardiovascular, and galvanic skin resistance patterns.

(h) "Polygraph examination" means the procedure by which a polygraph examiner renders an opinion as to the veracity of statements made by an examinee.

(i) "Secretary" means that member of the Polygraph Examiners Board selected by the board to act as secretary.

(j) "Examinee" means any natural person who voluntarily takes a polygraph examination.

Article 2. Application of the Chapter

9303. No person shall engage in conducting polygraph examinations, refer to himself or herself as a polygraph examiner, or offer or advertise his or her services as a polygraph examiner unless he or she is licensed under this chapter. This act does not apply to any employee of the United States of America while the employee is engaged in the performance of his or her official duties. Violation of this section shall be punishable as a misdemeanor.

Article 3. Administration

9304. The director shall administer and enforce the provisions of this chapter.

(a) The Polygraph Examiners Board shall consist of a total of five members, two of whom shall be polygraph examiners and three of whom shall be public members. Each member shall be a citizen of the United States and a resident of this state for at least two consecutive years prior to appointment. The two polygraph examiners shall have been engaged for a period of two consecutive years as polygraph examiners prior to appointment to the board. No two board members may be employed by the same person or agency. One polygraph examiner member shall be from a governmental agency and one polygraph examiner members shall be from the private sector.

(b) The Governor shall appoint the two polygraph examiner members and one public member. The Senate Rules Committee shall appoint one public member. The Speaker of the Assembly shall appoint one public member.

(c) All members of the board shall serve at the pleasure of the appointing authority.

(d) The board may adopt, repeal, or amend such regulations as may be reasonably necessary and expedient for the administration of this chapter. The regulations shall be adopted, amended, or repealed in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(e) Each member of the board shall receive a per diem and

expenses as provided in Section 103.

(f) The vote of a majority of the board members is sufficient for passage of any business or proposal which comes before the board.

(g) The board shall establish a prescribed course of training.

(h) The board shall establish a standard for the instruction of interns.

(i) The board shall prescribe form and content of the licensing examinations. The board shall meet within 30 days after the effective date of this chapter and elect a chairman, vice chairman, and secretary from among its members. At that meeting the board shall specify dates spaced at three-month intervals on which examinations for polygraph examiners' licenses will be held.

(j) The director, with the recommendation of the board, shall issue, suspend, or revoke any license.

(k) The chairman shall convene the board for a hearing when a licensee demands such a hearing, in writing, within 30 days of the denial, suspension, or revocation of his or her license. The hearings shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

Article 4. Licenses and Regulation

9305. There shall be two types of polygraph examiner licenses:

(a) The intern license, which permits the holder to conduct polygraph examinations in an internship.

(b) The general license which permits the holder to administer polygraph examinations, other than in an internship.

9306. (a) To become an intern, an applicant shall satisfy subdivisions (a) and (b) of Section 9307.

(b) To receive a general license, an applicant shall satisfy subdivisions (a) to (d), inclusive, of Section 9307. An intern shall receive a general license upon satisfaction of subdivisions (c) and (d) of Section 9307. The director shall require such proof as is necessary to establish satisfaction of the additional requirements.

9307. Any applicant for a license as a general polygraph examiner shall:

(a) Have a high school diploma or equivalent.

(b) Have graduated from a polygraph examiner's course approved by the board.

(c) Have completed not less than 200 polygraph examinations, of which 100 shall be "specific" examinations.

(d) Have successfully completed an examination administered by the board.

(e) At the time of enactment, any individual meeting the provisions of subdivisions (a), (b), and (c) shall be granted a license and shall be required to successfully pass the examination administered by the board within 12 months of the date of issue.

9308. (a) Any person who is not a resident of this state shall

include with his or her application for a general license, or renewal thereof, an irrevocable written consent permitting the board to act as his or her agent for the service of all legal process in this state.

(b) In any action in a court of competent jurisdiction in this state, service of process may be made upon a polygraph examiner who does not reside in this state by mailing two registered copies of the process to the secretary. The secretary shall retain one copy of the process in the records and immediately send, by certified or registered mail, the other copy to the polygraph examiner at the most current address as indicated by the records of the secretary.

9309. The director may grant a general license as a polygraph examiner in this state to a person who is licensed as a polygraph examiner by another state, or territory of the United States, without examination, upon application by that person, if the board finds each of the following:

(a) That the state or territory in which the person is licensed at the date of the issuance of the license by the other state or territory, had substantially equivalent licensure requirements as this state currently has, as determined by the director pursuant to the requirements of Section 9307.

(b) That the state or territory grants similar reciprocity to license holders of this state.

9310. A general license or an intern license shall be valid for a period of two years and shall be renewed by the director, upon recommendation of the board, upon evidence that the license holder has successfully completed 24 hours of polygraph training of the kind approved by the board within two years prior to the expiration of the holder's license.

9311. A person whose license has expired may obtain a renewal without examination upon application within two years after the date of the expiration of the license, upon compliance by the person with:

(a) Proof of attendance of at least 24 hours of polygraph training approved by the board within the previous two years.

(b) Payment of the required fee for the renewal.

9312. A person whose license has expired while he or she was an employee of any governmental agency or while he or she was on active duty as a member of the Armed Forces of the United States or on active duty as a member of the National Guard of this state may obtain a renewal license, without examination, upon application thereof within two years after the date of his or her termination of such employment or active duty, upon compliance by the person with:

(a) Proof of attendance of at least 24 hours of polygraph training approved by the board within the previous two years.

(b) Payment of the required fee for the renewal.

9313. (a) The director may refuse to issue or may revoke or suspend the license of any person as a polygraph examiner or intern on proof the person has done any of the following:

(1) Failed to inform an individual being examined as to the nature of the examination or failed to advise the individual or his or her representative, or the representative of the requesting agency, of the results of the examination.

(2) Failed to inform an individual being examined that his or her participation in the examination is voluntary.

(3) Made a material misstatement in his or her application for an original or renewal license under this chapter.

(4) Willfully disregarded or violated any provisions of this chapter or any regulation adopted pursuant thereto, including, but not limited to, the willful making of a false report of a polygraph examination.

(5) Has demonstrated physical or emotional inability or incompetency to carry out the duties of a polygraph examiner.

(6) Has permitted a license granted to him or her under this chapter to be used by another person.

(7) Has willfully aided or abetted any violation of this chapter or any regulation adopted pursuant thereto.

(8) Has failed to provide any information requested by the director after the receipt by the director of a complaint alleging that the person has violated a provision of this chapter or any regulation adopted pursuant thereto.

(9) If the holder of any license has been adjudged guilty of the commission of any felony or any crime involving moral turpitude.

(b) Any allegation of misconduct committed, or alleged to have been committed by any person acting as an agent of this state or any political subdivision thereof, shall be referred to the Attorney General for investigation. The Attorney General shall forward the results of the investigation to the board for appropriate action.

9314. Any unlawful act or violation of any of the provisions of this chapter on the part of any polygraph examiner or intern shall not be cause for revocation of the license of any other polygraph examiner for whom the offending examiner or intern may have been employed, unless it shall appear to the satisfaction of the director, that the polygraph examiner-employer has willfully or negligently aided or abetted the illegal actions or activities of the offending polygraph examiner or intern.

9315. Upon receipt of written notification of the suspension or revocation by the director of his or her license, a polygraph examiner or intern shall surrender immediately his or her license to the director. The director may restore a suspended or revoked license to the prior holder thereof, if the board has completed a noticed hearing into the matter, and made a favorable recommendation for reinstatement.

9316. No examination shall be conducted or administered by a polygraph examiner unless the polygraph examiner makes known to the examinee each of the following:

(a) That the taking of the examination is a voluntary act on his or her part.

(b) That he or she may decline to take the examination and the declination shall not be construed to disadvantage him or her in any manner.

(c) The subject matter, or area of inquiry and the questions to be asked during the examination, which questions shall be read aloud prior to the instrumental examination. The person to be examined may be asked to sign a written statement acknowledging that the requirements of this section have been complied with by the polygraph examiner and may be asked to sign a written statement consenting to the disclosure of the examination results.

9317. (a) On and after January 1, 1984, any polygraph instrument used to test or question individuals for the purpose of determining the truthfulness of statements made by the individuals, shall be of the type approved by the board. To be approved, each type of instrument shall record visually, permanently, and simultaneously at least the cardiovascular pattern, the respiratory pattern, and the galvanic skin resistance pattern of each individual. The patterns of other physiological changes of any such individual may also be recorded.

(b) Nothing in this chapter shall be construed to restrict development of improved equipment or techniques.

9318. (a) A polygraph examiner shall prominently display his or her license at his or her place of business or employment, and an intern shall display prominently the intern license at the place of his or her internship.

(b) A polygraph examiner shall notify the director in writing of any change in his or her principal place of business within 30 days after the date of the change. Upon discovery by the director of the failure by a licensee to comply with this section, the director shall suspend the license of the polygraph examiner.

9319. A polygraph examiner shall retain records of all polygraph examinations for a period of not less than two years.

Article 5. Fees

9320. The director shall receive and account for all fees and revenues derived from the operation of this chapter, and at the end of each month shall report the fees and revenues to the Controller and shall pay them to the Treasurer, who shall keep the fees and revenues in a separate fund known as the Polygraph Examiners Fund. Fees and revenues contained in this fund shall be available to the director for carrying out the provisions of this chapter when appropriated therefor by the Legislature.

9321. (a) The director shall establish fees in amounts he or she determines reasonably necessary to provide sufficient revenue for the administration and enforcement of this chapter, but in no event shall the fee be less than fifty dollars ($50) and no more than two hundred fifty dollars ($250).

(b) There shall be no fee charged for a license, either an intern

license or general license, for an individual who is employed as a polygraph examiner by the state or any political subdivision thereof, while the employee is engaged in the performance of his or her official duties. Any such employee, however, conducting examinations outside his or her official duties shall be required to pay the same license fee as that required of an individual in the private sector.

(c) The sum of fifty thousand dollars ($50,000) is hereby appropriated from the General Fund to the Polygraph Examiners Fund, which sum shall be a loan to be repaid to the General Fund with interest at the rate earned by moneys invested in the Pooled Money Investment Account and which shall be repaid during the 1984–85 fiscal year from funds collected pursuant to the Polygraph Examiners Act.

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 1108

An act to amend Section 82019 of the Government Code, and to add Section 10334 to the Public Contract Code, relating to public agency transactions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 82019 of the Government Code is amended to read:

82019. "Designated employee" means any officer, employee, member or consultant of any agency whose position with the agency:

(a) Is exempt from the state civil service system by virtue of subdivision (a), (c), (d), (e), (f), (g), or (m) of Section 4 of Article VII of the Constitution, unless the position is elective or solely secretarial, clerical or manual;

(b) Is elective, other than an elective state office; or

(c) Is designated in a Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.

(d) Is involved as a state employee at other than a clerical or ministerial level in the functions of negotiating or signing any contract awarded through competitive bidding, in making decisions in conjunction with the competitive bidding process, or in negotiating, signing, or making decisions on contracts executed pursuant to Section 10122 of the Public Contract Code.

"Designated employee" does not include an elected state officer or any unsalaried member of any board or commission which serves a solely advisory function.

SEC. 2. Section 10334 is added to the Public Contract Code, to read:

10334. No state employee may purchase any goods, supplies, equipment, or materials from the state, unless the goods, supplies, equipment, or materials are offered to the general public in the regular course of the state's business on the same terms and conditions as those applicable to the employee. "State employee," as used in this section, means any employee of the state included within Section 82009 of the Government Code, and all officers and employees included within Section 4 of Article VII of the California Constitution, except those persons excluded from the definition of "designated employee" under the last paragraph of Section 82019 of the Government Code.

SEC. 3. The Legislature finds and declares that the provisions of this act further the purposes of the Political Reform Act of 1974 within the meaning of subdivision (a) of Section 81012 of the Government Code.

SEC. 4. This act shall become operative only if Senate Bill 129 is chaptered.

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.

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 provides vital safeguards to protect the public from misuse of state funds due to favoritism, fraud, or corruption in conjunction with state purchases and the awarding of state contracts. It is therefore necessary that this act take effect immediately.

CHAPTER 1109

An act to amend Section 10204 of the Streets and Highways Code, to amend Sections 50701, 50702, 50704, 53022, 53023, 53072, 53073, and 53300 of, and to add Section 50704.5 to, the Water Code, and to repeal and add Sections 808, 905, and 906 of, and to repeal Section 907 of, the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980), relating to water, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 10204 of the Streets and Highways Code is amended to read:

10204. The report of the person or board to whom the improvement is referred by the legislative body shall contain all of the following:

(a) Plans and specifications of the proposed improvement if the improvement is not already installed.

(b) A general description of works or appliances already installed and any other property necessary or convenient for the operation of the improvement, if the works, appliances, or property are to be acquired as part of the improvement.

(c) An estimate of the cost of the improvement and of the cost of lands, rights-of-way, easements, and incidental expenses in connection with the improvement. If the legislative body in the resolution of intention ordered that private utility damages be included in the assessment, the report shall contain an estimate of private utility damages.

(d) A diagram showing the assessment district and the boundaries and dimensions of the subdivisions of land within the district as they existed at the time of the passage of the resolution of intention. Each subdivision, including each separate condominium interest as defined in Section 783 of the Civil Code, shall be given a separate number upon the diagram.

(e) A proposed assessment of the total amount of the cost and expenses of the proposed improvement upon the several subdivisions of land in the district in proportion to the estimated benefits to be received by each subdivisions, respectively, from the improvement. In the case of an assessment for installation of planned local drainage facilities which are financed, in whole or in part, pursuant to Section 66483 of the Government Code, the assessment levied against each parcel of subdivided land may be levied on the basis of the proportionate storm water runoff from each parcel. When any portion or percentage of the cost and expenses of the improvement is ordered to be paid out of the treasury of the

municipality, pursuant to Section 10201, the amount of that portion or percentage shall first be deducted from the total estimated cost and expenses of the improvement, and the assessment upon property proposed in the report shall include only the remainder of the estimated cost and expenses. The assessment shall refer to the subdivisions by their respective numbers as assigned pursuant to subdivision (d).

SEC. 1.5. Section 50701 of the Water Code is amended to read:

50701. The board, prior to each election, shall cause a copy of the appropriate roll to be utilized pursuant to Section 50704 to be prepared and certified by the proper officer and furnished to the election board.

SEC. 1.2. Section 50702 of the Water Code is amended to read:

50702. The certified roll furnished to the election board shall be used by the election board in determining the number of votes each voter may cast.

SEC. 1.4. Section 50704 of the Water Code is amended to read:

50704. Each voter in the district may vote at any election in person or by proxy, and may cast his or her votes as follows:

(a) If the district has, within the calendar year preceding that in which the election occurs, levied an operation and maintenance assessment pursuant to Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of this division, then each voter shall be entitled to cast one vote for each dollar's worth of assessment valuation as shown on that assessment roll for all parcels owned by the voter or his principal.

(b) If the district has not levied an operation and maintenance assessment pursuant to Article 3 (commencing with Section 51320) of Chapter 2 of Part 7 of this division during the calendar year preceding that in which the election occurs, but has during that year ordered payment of an installment on an original or additional assessment pursuant to Article 2 (commencing with Section 51510) of Chapter 3 of Part 7 of this division, or levied fees and charges pursuant to Section 50902, then each voter shall be entitled to cast one vote for each dollar's worth of installment or fee and charge levied in the preceding year upon all parcels owned by the voter or his principal.

(c) If neither an operation and maintenance assessment nor an installment upon an original or additional assessment nor fee or charge was levied or ordered paid by the district during the calendar year preceding that in which the election occurs, then each voter shall be entitled to cast one vote for each acre owned by the voter or his principal within the district, provided that if the voter or his principal owns less than one acre then the voter shall be entitled to one vote and any fraction shall be rounded to the nearest full acre.

(d) When a district elects to have the board of supervisors levy a special tax on behalf of the district on all taxable land and improvements pursuant to Article 4 (commencing with Section 51360) of Chapter 2 of Part 7 of this division, then each voter may

vote at any district election in person or by proxy, and may cast one vote for each dollar's worth of taxable land and improvements owned by him or his principal in the district, as determined from the last equalized tax roll of each county in which the lands of the district are situated.

(e) The ownership and number of acres owned for the purpose of this section shall be determined from the last equalized tax roll of each county in which the lands of the district are situated.

SEC. 2. Section 50704.5 is added to the Water Code, to read:

50704.5. When a parcel is held as community property or in joint tenancy or as tenants in common, any spouse or joint tenant or tenant in common shall be presumed to have authority to cast all votes for the parcel upon filing with the election board a certification under penalty of perjury identifying the spouse, joint tenants, or tenants in common for whom the votes are to be cast. A legal representative, upon filing with the election board a certification under penalty of perjury identifying the principal and the authority of the legal representative, shall be presumed to have authority to cast all votes for the principal identified in the certification.

SEC. 3. Section 53022 of the Water Code is amended to read:

53022. Demand warrants not paid on presentation shall bear interest from date of registration at the rate adopted by the board, pursuant to Section 53300.

SEC. 4. Section 53023 of the Water Code is amended to read:

53023. Demand warrants registered for nonpayment shall be paid by the county treasurer either in the order of registration or in the order agreed to, in writing, by all of the holders of the district's outstanding demand warrants, if the county treasurer approves the agreement.

SEC. 5. Section 53072 of the Water Code is amended to read:

53072. A demand warrant unpaid for want of funds at the time of presentation shall be registered by the county treasurer separately from other warrants of the district and shall bear interest from date of registration at the rate which the board has adopted pursuant to Section 53300.

SEC. 6. Section 53073 of the Water Code is amended to read:

53073. A demand warrant issued pursuant to this article, shall be paid only from the maintenance fund, and, when registered, either in the order of its registration or in the order agreed to, in writing, by all of the holders of the district's outstanding demand warrants, if the county treasurer approves the agreement.

SEC. 7. Section 53300 of the Water Code is amended to read:

53300. The board may provide, by resolution entered in its minutes, such rate of interest upon warrants as it deems reasonable, not to exceed 12 percent per year.

SEC. 8. Section 808 of the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980) is repealed.

SEC. 9. Section 808 is added to the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980), to read:

Sec. 808. The groundwater extraction charge may, at the option of the district, be collected on the tax rolls of both counties in which the district is situated in the same manner, by the same persons, and at the same time as, together with and not separately from, county ad valorem property taxes. In lieu of this election, the district shall collect groundwater extraction charges at the same time, together with penalties and interest at the same rates, as is prescribed for the collection of county ad valorem property taxes. The amount of an unpaid groundwater extraction charge together with any penalty or interest thereon shall constitute a lien on that land as of the same time and in the same manner as does the tax lien securing ad valorem property taxes.

SEC. 10. Section 905 of the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980) is repealed.

SEC. 11. Section 905 is added to the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980), to read:

Sec. 905. The management charge may, at the option of the district, be collected on the tax rolls of both counties in which the district is situated in the same manner, by the same persons, and at the same time as, together with and not separately from, county ad valorem property taxes. In lieu of this election, the district shall collect management fees at the same time, together with penalties and interest at the same rates, as is prescribed for the collection of county ad valorem property taxes.

SEC. 12. Section 906 of the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980) is repealed.

SEC. 13. Section 906 is added to the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980), to read:

Sec. 906. The amount of an unpaid management charge together with any penalty and interest thereon shall constitute a lien on that land as of the same time and in the same manner as does the tax lien securing county ad valorem property taxes.

SEC. 14. Section 907 of the Sierra Valley Groundwater Basin Act (Chapter 449 of the Statutes of 1980) is repealed.

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 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.

SEC. 16. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to insure that the provisions of this act are applicable to elections scheduled to be held this year and that reclamation district elections are conducted in an equitable and efficient manner, and in order that the Sierra Valley Groundwater Management District may have its charges collected by means of county tax bills and thereby

save significant administrative costs during the current year, it is necessary that this act take effect immediately.

CHAPTER 1110

An act to add Section 998 to the Revenue and Taxation Code, relating to property taxation.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. The Legislature finds that the development and sale of timeshare interests is an important and growing segment of the real estate industry in California and that certainty and uniformity in the assessment of such interests is important to the continued development of timeshare projects in this state.

The Legislature also finds that a significant portion of the purchase price of a timeshare interest may be attributable to features and services that are not real property, in addition to the ownership of real property. These nonreal property items may include vacation exchange rights, vacation conveniences and services, club memberships, and other intangible rights and services which are not real property and are not subject to assessment for property tax purposes.

It is, therefore, the intent of the Legislature in enacting this act to provide uniformity and certainty in the assessment of timeshares by providing a method for valuing timeshare interests which identifies only that portion of the interest constituting real property subject to property tax in accordance with Article XIII and Section 1 of Article XIII A of the California Constitution.

SEC. 2. Section 998 is added to the Revenue and Taxation Code, to read:

998. (a) The full value of a timeshare estate or a timeshare use subject to tax under this division shall be determined by finding the real property value of the interest involved and shall not include the value of any nonreal property items, including, but not limited to, vacation exchange rights, vacation conveniences and services, and club memberships. Accordingly, the full value of a timeshare estate or timeshare use may be determined by reference to resort properties, condominiums, cooperatives, or other properties which are similar in size, type, and location to the property subject to timeshare ownership and are not owned on a timeshare basis. The aggregate assessed value of all the timeshare estates or uses relating to a single lot, parcel, unit, or other segment of real property shall be determined by adding (1) the fair market value of the similar lot, parcel, unit, or other segment not owned on a timeshare basis, and

(2) an amount necessary to reflect any increase or decrease to the market value attributable to the fact that the property is marketed in increments of time, or by any alternate method which will determine the real property value without regard to any nonreal property items which may be included.

(b) Nothing in this section shall authorize a reassessment of real property as a result of the creation or transfer of a timeshare interest in the property unless the creation or transfer of the timeshare interest constitutes a change in ownership under Chapter 2 (commencing with Section 60) of Part 2 and Section 2 of Article XIII A of the California Constitution.

(c) For purposes of this section, "timeshare estate" and "timeshare use" shall have the meanings set forth in Section 11003.5 of the Business and Professions Code, and "timeshare interest" shall refer to both timeshare estates and timeshare uses.

(d) Nothing in this section shall be construed as requiring the assessment of any property at less than fair market value as required by Section 401.

(e) The State Board of Equalization shall adopt by June 30, 1984, regulations to carry out the provisions of this section.

SEC. 3. The Legislature finds and declares that Section 2 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 application of existing law and provide uniformity and certainty in the assessment of timeshare estates and uses.

SEC. 4. 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 for any property tax revenues lost by it under this act, since this act is declaratory of existing law.

CHAPTER 1111

An act to amend Section 10010.5 of the Elections Code, and to add Section 5010.5 to the Education Code, relating to elections.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 5010.5 is added to the Education Code, to read:

5010.5. (a) Notwithstanding any other provision of law, the San Diego Unified School District and the San Diego Community College District may, by resolution, require that its trustee primary elections be held on the same day as the statewide direct primary election and that its trustee general elections be held on the same day as the statewide general election.

(b) If, pursuant to subdivision (a), a general trustee election is held on the same day as a statewide election, those trustees whose four-year terms of office would have, prior to the adoption of the resolution, expired prior to that election shall, instead, continue in their offices until successors are elected and qualified.

(c) If a district governing board adopts a resolution pursuant to subdivision (a), primary and general trustee elections following the adoption of the ordinance shall be conducted on the date specified by the governing board in accordance with subdivision (a) unless the resolution in question is later repealed by the governing board.

SEC. 2. 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 a space for 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. Any funds which are prohibited under federal law from being used for candidates for federal office shall be further segregated and any portion allocated to candidates shall be disbursed only to candidates for state office.

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 1112

An act to add Section 409.6 to the Penal Code, relating to peace officers.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 409.6 is added to the Penal Code, to read:

409.6. (a) Whenever a menace to the public health or safety is created by an avalanche, officers of the California Highway Patrol, California State Police, police departments or sheriff's office, any officer or employee of the Department of Forestry designated a peace officer by subdivision (i) of Section 830.2, and any officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (h) of Section 830.2, may close the area where the menace exists for the duration thereof by means of ropes, markers or guards to any and all persons not authorized by such officer to enter or remain within the closed area. If an avalanche creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions which are set forth above in this section

(b) Officers of the California Highway Patrol, California State Police, police departments, or sheriff's office or officers of the Department of Forestry designated as peace officers by subdivision (i) of Section 830.2 may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating hazardous conditions created by an avalanche to any and all unauthorized persons pursuant to the conditions which are set forth in this section whether or not such field command post or other command post is located near the avalanche.

(c) Any unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within such area, or any unauthorized person who willfully remains within an area closed pursuant to subdivision (a) or (b), after receiving notice to evacuate or leave from a peace officer named in subdivision (a) or (b) shall be guilty of a misdemeanor. If necessary, a peace officer named in subdivision (a) or (b) may use reasonable force to remove from the closed area any unauthorized person who willfully remains within such area after receiving notice to evacuate or leave.

(d) Nothing in this section shall prevent a duly authorized representative of any news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.

CHAPTER 1113

An act to amend Section 987.88 of the Military and Veterans Code, relating to veterans' farm and home purchase.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 987.88 of the Military and Veterans Code is amended to read:

987.88. (a) In the event the department enters into a master agreement with one or more insurance companies to provide life or disability insurance coverage for the purchasers of farms and homes from the department, the master agreement shall provide that the life insurance will be offered to purchasers who are disabled solely as a result of their qualifying military service and to nondisabled purchasers on an equal basis and that no purchaser shall be denied coverage solely because that purchaser has a qualifying military service-connected disability at the time of application. Notwithstanding Part 2 (commencing with Section 10110) of Division 2 of the Insurance Code, any such life or disability insurance shall be a form of group life or group disability insurance.

(b) The master agreement may provide for maintenance of such reserves as the department deems appropriate and prudent, and the department may use from time to time any accumulated surplus in those reserves, or any refunds or returns therefrom upon termination of the agreement, for the purposes of this article or of any veterans general obligation or revenue bond act. Any and all acts of the department in maintaining and using the reserves consistent with this subdivision are hereby ratified and confirmed, it having at all times been the intent of the Legislature that reserves be maintained and that any surpluses therein or refunds or returns therefrom be used by the department for the purposes stated in this subdivision.

(c) Notwithstanding subdivision (b), on and after January 1, 1987, any reserves maintained under the master agreement shall not exceed a level greater than 20 percent in excess of actuarial requirements plus a reasonable contingency reserve, as determined annually by the department, and the department may contract with one or more independent actuaries or actuarial firms to assist the department in the annual determination.

CHAPTER 1114

An act to amend Section 16704 of, and to add Section 16706.1 to, the Welfare and Institutions Code, relating to county health services expenditures, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1 Section 16704 of the Welfare and Institutions Code is amended to read:

16704. Funds from the County Health Services Fund shall be allocated to the governing body of each county, the City of Berkeley, and each existing local health district annually in accordance with the following procedures:

(a) The allocation of the amount determined in subdivision (a) of Section 16702 shall be made to each governing body of each county upon submission of the plan and budget as required by Section 16700. These funds shall be expended for county health services.

(b) The allocation of the amounts up to the maximum determined in subdivisions (b), (c), and (d) of Section 16702 shall be made upon application by the governing body of each local jurisdiction and upon signing of an agreement between the governing body and the State Director of Health Services. In the agreement, (1) all local jurisdictions shall agree to expend funds in an aggregate amount at least equal to the total amount designated in the plan and budget submitted pursuant to Section 16700; (2) counties shall agree to net county costs for county health services of county funds in the same amount as the funds requested under this paragraph pursuant to subdivision (b) of Section 16702; (3) counties shall agree to expend one dollar ($1) of county funds for every three dollars ($3) of state funds requested pursuant to subdivision (d) of Section 16702; and (4) cities shall agree to expend three dollars ($3) of city funds for every one dollar ($1) of state funds requested pursuant to paragraph (2) of subdivision (c) of Section 16702; and (5) all local health districts shall agree to expend two dollars ($2) of district funds for every one dollar ($1) of state funds requested pursuant to paragraph (3) of subdivision (c) of Section 16702. Funds requested pursuant to subdivision (d) and paragraph (3) of subdivision (c) of Section 16702 shall be expended only for public health services.

(c) (1) The allocation of funds appropriated pursuant to subdivisions (c) and (d) of Section 16703 shall be made upon application by the county board of supervisors. The application shall be in a form and in accordance with procedures and format established by the department. The board shall assure that it will expend such funds only for the health services specified in Sections

14132 and 14021 provided to persons certified as eligible for such services pursuant to Section 17000. Unless the county has entered into a contract with the department under Section 16709 which is effective either for an entire fiscal year including the 1983–84 fiscal year, or is effective for the period commencing October 1, 1983, and ending on June 30, 1984, the board shall also assure that it will incur no less in net costs of county funds for county health services in any fiscal year than the amount required to obtain the maximum allocation under Section 16702. These assurances shall be incorporated in the agreement specified in subdivision (b) of this section. In no event shall such funds be expended for costs of services specified in county Short-Doyle plans which are in excess of the 125 percent limitation specified in Section 5705.1.

(2) A county may reduce the amount of net costs of county funds for county health services required pursuant to paragraph (1) of subdivision (c) to the extent such reduction has been permitted pursuant to the provisions of Section 16705 or 16705.5, provided that, for fiscal year 1982–83 only, the provisions of Section 16705 shall not be operative, except for counties which received approval for reductions pursuant to this section in prior fiscal years.

(3) Any person whose income and resources meet the income and resource criteria for certification for services pursuant to Section 14005.7 other than for the aged, blind, or disabled, shall not be excluded from eligibility for services to the extent that state funds are provided. Such persons may be held financially liable for these services based upon the person's ability to pay. A county may not establish a payment requirement which would deny medically necessary services. This section shall not be construed to mandate that a county provide any specific level or type of health care service or to preclude a county from utilizing its own forms for the purpose of identifying persons eligible for county health care services. The Board of Control shall not honor any claims by a local agency for reimbursement of costs under this section. The provisions of this paragraph shall become inoperative if a court ruling is issued which decrees that the provisions of this paragraph mandates that additional state funds be provided and which requires that additional state reimbursement be made to counties for costs incurred under this paragraph. This paragraph shall be operative only until June 30, 1985, unless a later enacted statute extends or deletes that date.

(d) The agreement shall provide for reports of expenditures and information and shall constitute a contractual obligation. The State Director of Health Services shall not have the authority to disapprove the county health services plan or to require the additional expenditure of county, city, or district funds for health services beyond that required by this section and Section 16707.

(e) The local jurisdiction shall act in general accordance with the plan and budget submitted pursuant to Section 16700.

SEC. 2. Section 16706.1 is added to the Welfare and Institutions Code, to read:

16706.1. For allocations made for the 1982–83, 1983–84, and 1984–85 fiscal years only, no funds allocated to a county pursuant to subdivision (c) of Section 16704 shall be recouped by reason of a county's not having a documentation system to verify that the funds were expended only for services provided to persons certified as eligible for services pursuant to Section 17000, provided:

(a) The state shall recover any funds not expended for the health services specified in Sections 14021 and 14132.

(b) The county documents that no fee was required prior to the rendering of those services and that those services have been provided regardless of a person's ability to pay whether or not those services are provided through either county facilities or through facilities or providers with which the county has a contract for the provision of services.

(c) For a county with a contract with a federally qualified health maintenance organization, the county documents that it has made premium payments to the health maintenance organization for persons certified as eligible for services pursuant to Section 17000 based upon actuarially determined rates for a prescribed set of benefits and reasonable cost and utilization projections. Any savings retained by the health maintenance organization shall be taken into account by the county in negotiating premium levels and scope of benefits, if the county continues contracting with the health maintenance organization in future years.

(d) The county, as determined by the Office of County Health Services in the State Department of Health Services, is making good faith efforts to develop a documentation system for verification of expenditures of those funds.

(e) The county documents that it has provided reasonable access to necessary services for clients rendered pursuant to Section 17000.

(f) The county has complied with all other requirements and assurances specified in subdivision (c) of Section 16704.

SEC. 3. It is the intent of the Legislature that the amendments contained in Section 1 of this act shall be effective commencing with the 1982–83 fiscal year.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to insure that the health care service needs of indigent persons continue to be met, it is essential that this act go into immediate effect.

CHAPTER 1115

An act to add Section 2954.10 to the Civil Code, relating to due-on-sale provisions.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 2954.10 is added to the Civil Code, to read:

2954.10. An obligee which accelerates the maturity date of the principal and accrued interest, pursuant to contract, on any loan secured by a mortgage or deed of trust on real property, upon the conveyance of any right, title, or interest in that property, may not claim, exact, or collect any charge, fee, or penalty for any prepayment resulting from that acceleration.

The provisions of this section shall not apply to a loan other than a loan secured by residential real property containing four units or less, in which the obligor has expressly waived, in writing, the right to repay in whole or part without penalty, or has expressly agreed, in writing, to the payment of a penalty for prepayment upon acceleration. For any loan executed on or after January 1, 1984, any such waiver or agreement shall be separately signed or initialed by the obligor and its enforcement shall be supported by evidence of a course of conduct by the obligee of individual weight to the consideration in that transaction for the waiver or agreement.

CHAPTER 1116

An act to amend Sections 40653, 40656, 40658, 40666, 40691, 40702, 40750, 40750.5, and 40752 of, to add Sections 40658.5 and 40701.5 to, to add Article 9 (commencing with Section 40760) to Chapter 2.5 of Division 17 of, the Vehicle Code, relating to traffic offenses.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 40653 of the Vehicle Code is amended to read:

40653. On January 1, 1979, and continuing through July 1, 1985, inclusive, there shall be established a Traffic Adjudication Advisory Committee, which shall consist of the following:

(a) The commissioner or the commissioner's representative.

(b) The director or the director's representative.

(c) One person appointed by the Judicial Council.

(d) One person appointed by the Governor representing the League of California Cities or the County Supervisors Association of California.

(e) The chairperson of the board of supervisors, or the chairperson's representative, of each of the counties participating in the pilot project.

(f) The Director of the Office of Administrative Hearings or the director's representative.

(g) One person selected jointly by the police chiefs of the Cities of Sacramento, Davis, and Roseville.

(h) One person appointed by the Governor representing the motoring organizations of California.

SEC. 1.2. Section 40656 of the Vehicle Code is amended to read:

40656. Staff assistance to the advisory committee shall be provided by state agencies represented on the advisory committee or by the staff of the board.

SEC. 1.5. Section 40658 of the Vehicle Code is amended to read:

40658. There is in the Business, Transportation, and Housing Agency the Traffic Adjudication Board. The board for the pilot program established pursuant to Article 8 (commencing with Section 40750) shall consist of five members appointed by the Governor. The Counties of Yolo, Placer, and Sacramento shall each have one representative on the board appointed by the Governor from a list of at least three nominees prepared by each county's board of supervisors and submitted to the Governor on January 1, 1979. Each list of nominees shall include at least two active members of the State Bar of California who have practiced law in this state for at least five years. Of the five members, at least three shall be active members of the State Bar of California who have practiced law in this state for at least five years, and at least one shall be a person who has experience in traffic law enforcement.

The terms of the members of the board shall expire on July 1, 1984, at which time the Governor shall appoint new members, whose terms shall expire on July 1, 1985.

SEC. 2. Section 40658.5 is added to the Vehicle Code, to read:

40658.5. The Governor shall appoint an executive director of the board, who shall serve at the pleasure of the Governor. The executive director shall, subject solely to the supervision of the board, administer and direct the day-to-day operations of the board. The executive director shall employ other persons necessary to discharge the functions of the board as provided in this chapter.

SEC. 3. Section 40666 of the Vehicle Code is amended to read:

40666. The board shall do all of the following:

(a) Adopt rules and regulations, in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, governing those matters which are within its jurisdiction and which may be necessary to effectuate the purposes of this chapter.

(b) Arrange for the Office of Administrative Hearings to provide

hearing officers necessary to hear and determine cases arising under this chapter. At least one-half of the hearing officers shall be attorneys with at least one year experience. The remainder shall have legal training, as a minimum, in the areas of evidence, constitutional law, criminal law, administrative law, and shall pass a written test accordingly. Additional minimum qualifications may be established by the State Personnel Board. The appointments shall conform to civil service regulations.

(c) Hear and consider, within the limitations of, and in accordance with, the procedures provided in this chapter, all appeals from decisions of hearing officers.

(d) The board may issue subpoenas and subpoenas duces tecum.

(e) After considering existing bail schedules, adopt a schedule of monetary and nonmonetary sanctions for traffic safety violations; provided, however, that no monetary sanction may exceed the maximum fine established for offenses declared to be infractions pursuant to Chapter 1 (commencing with Section 42000) of Division 18. The schedule of monetary sanctions shall include guidelines setting forth the circumstances under which the hearing officers, in the interest of traffic safety and equality of justice, may reduce the sanction for a traffic safety violation by as much as 50 percent or increase the sanction by as much as 25 percent. These increased or decreased sanctions shall be prescribed in an effort to improve the driving behavior of the person to whom the sanction is applied or to take into account mitigating circumstances. In addition, at the request of any county board of supervisors, the Traffic Adjudication Board may allow increases or decreases of not more than 25 percent from the monetary sanctions established in the schedule of sanctions for that county when the Traffic Adjudication Board has reasonable cause to believe that the deviation will further traffic safety efforts, including, but not limited to, accident reduction programs, better driving programs, or rewards for reduced accident or citation levels. No deviation may be calculated so as to permit a monetary sanction for a traffic safety violation to exceed the maximum fine established for an equivalent infraction or for the purpose of raising revenue.

(f) Give due consideration, in the establishment of the schedules of sanctions, to the amount of use or mileage traveled in the operation of a motor vehicle.

(g) Prescribe, by regulation, the form for the notice to appear to be used for all traffic safety violations pursuant to this chapter and to establish procedures for administrative controls over the disposition thereof.

(h) Submit an annual report to the Governor and the Legislature, including, but not limited to, the past year's accomplishments, identification of problems, and recommendations for future legislation.

(i) The board shall reimburse the department for all administrative staff services provided thereto and not exempted by another statute.

(j) Levy a penalty assessment on all monetary sanctions for traffic safety violations, except for violations relating to parking or registration or violations by pedestrians or bicyclists. The amount of the penalty assessment shall be the same as for infractions adjudicated by the courts within the affected county jurisdiction.

SEC. 4. Section 40691 of the Vehicle Code is amended to read:

40691. (a) Any person who receives a notice to appear for a traffic safety violation shall answer such notice by mail postmarked within 21 days of the date of the alleged violation or by personal appearance at a traffic adjudication office within 21 days of the date of the alleged violation, in the manner provided in this chapter.

(b) A person alleged to have committed a traffic safety violation shall have the following answer options:

(1) Admission.

(2) Admission with explanation.

(3) Denial.

(4) Denial with waiver of full hearing.

(5) No contest.

The terms and conditions under which a person may amend an answer shall be prescribed by rules and regulations of the board.

(c) Notwithstanding the provisions of subdivision (b), the answer option of denial with waiver of full hearing shall not be available to any person cited by a notice of violation, nor to any person who has answered a notice to appear in that manner within three years immediately preceding the violation date as shown on the notice to appear, nor to any person after 90 days from the citation issuance date.

(d) If the person admits to the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, as prescribed by the board, and forward the form to the local traffic adjudication area processing center specified on the answer form. A check or money order in the amount of the monetary sanction and penalty assessment for the traffic safety violation alleged, if specified on the answer form, shall be submitted with each such answer. Such answer may not be accepted by mail if the admission will result in the assignment of a point or points pursuant to Section 12810, with the result that the person's driving record will show three or more points within a 12-month period, four or more points within a 24-month period, or five or more points within a 36-month period unless the board determines otherwise based on traffic safety implications or geographical considerations. In addition, the board may require a cited person to appear before a hearing officer to answer to a notice to appear when the board determines that to do so is in the interest of traffic safety.

(e) If the person denies part or all of the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, as prescribed by the board, and forward the form to the local traffic adjudication area processing center specified on the answer form. A check or money order in the amount

of the monetary sanction and penalty assessment for the traffic safety violation alleged may be submitted with such answer. Upon receipt, such answer shall be recorded. The board may change the date, time, and place of appearance in the interests of justice. The local traffic adjudication area processing center shall notify such person by mail of the new date, time, and place of such hearing.

(f) If the person desires to answer with either an admission with explanation or a denial with waiver of full hearing, such answer shall be made within 21 days. The informal hearing may be heard on the day of the answer.

(g) If the person desires to neither admit nor deny the traffic safety violation alleged in the notice to appear, the person shall complete an appropriate answer form, indicating no contest, as prescribed by the board, and forward such form to the local traffic adjudication area processing center specified on the answer form. A check or money order in the amount of the monetary sanction, and penalty assessments, for the traffic safety violation alleged if specified on the answer form, shall be submitted with such answer. This answer shall be treated the same as an admission and shall be recorded in the same manner in the person's driving record. Such answer may be accepted by mail but is subject to the exception set forth in subdivision (d). Such answer shall constitute a waiver of the right to a full hearing.

SEC. 5. Section 40701.5 is added to the Vehicle Code, to read:

40701.5. (a) Any person willfully violating his or her written promise to appear or a lawfully granted continuance of the promise to appear at the Traffic Adjudication Board on more than one notice to appear is guilty of a misdemeanor, regardless of the disposition of the charges specified in the notice to appear.

(b) When a person has an outstanding failure to appear, or lawful continuance thereof, before the Traffic Adjudication Board, and willfully fails to appear on a subsequent notice to appear, the Traffic Adjudication Board shall deliver to a magistrate in the county in which the notice to appear was issued a copy of the notice to appear and an affidavit which explains the circumstances.

(c) When the provisions of subdivision (b) have been complied with, the magistrate may issue and have delivered for execution a warrant for the arrest of the person named on the notice to appear and affidavit.

SEC. 6. Section 40702 of the Vehicle Code is amended to read:

40702. (a) All monetary sanctions and penalty assessments collected by the board or a hearing officer shall be reported monthly to the State Controller and at the same time deposited in the State Treasury to the credit of the Traffic Adjudication Fund, which fund is hereby created.

(b) The money in the Traffic Adjudication Fund is hereby appropriated as specified in this section.

(c) The board shall report monthly to the State Controller and the auditor of each county the amount of all monetary sanctions and all

penalty assessments collected during the preceding month as a result of traffic safety violations occurring in the county. The report to the county auditor shall also identify the amount of the sanctions collected as a result of actions by state officers, county officers, and city officers of each city in the county.

(d) Upon receiving the report from the board, the State Controller shall transfer the reported amount of penalty assessments from the Traffic Adjudication Fund in the same manner as provided by law for infractions adjudicated by the courts within the affected county. The monetary sanctions deposited in the Traffic Adjudication Fund are hereby appropriated to the State Controller, who shall disburse to the auditor of each county the amount of monetary sanctions shown by the report to have been collected as a result of traffic safety violations in that county.

The money disbursed to the auditor shall be distributed among the cities and the county according to the provisions of Section 1463 of the Penal Code.

SEC. 7. Section 40750 of the Vehicle Code is amended to read:

40750. In order to establish the practical application of the administrative adjudication of traffic safety violations, this chapter shall be implemented during the period from January 1, 1979, through July 1, 1985, on a demonstration basis in the Counties of Sacramento and Yolo. The board of supervisors of any participating county may withdraw from the demonstration program upon the giving of 12 months' prior written notice.

SEC. 8. Section 40750.5 of the Vehicle Code is amended to read:

40750.5. This chapter shall become inoperative on July 1, 1985, and, as of January 1, 1986, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1986, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 9. Section 40752 of the Vehicle Code is amended to read:

40752. The board shall submit a report on the progress of the demonstration program to the Governor and the Legislature on January 1 of each year through January 1, 1984. An evaluation prepared by a consultant who is retained by the board and is independent of the state and any state agency shall be submitted with this report, with the consultant's final report due January 1, 1984. The evaluation shall include, but not be limited to, an analysis of the costs and benefits of administrative adjudication, both quantifiable and nonquantifiable, as they relate to the judicial system, law enforcement, local government, the defendant, the general public, public and private driver improvement programs and services and the department. Affected agencies shall develop and provide the data required to conduct such evaluation. The evaluation shall include recommendations relative to maximizing the efficiency and effectiveness of the administrative adjudication program in terms of the preceding identified categories.

The evaluation shall also include an analysis of the traffic safety impacts of administrative adjudication, as compared to the court

system.

The analysis of traffic safety impacts shall be based upon a monitoring of accident records or violation records, or both, of two groups of drivers: one group which shall be composed of drivers whose cases are adjudicated in the administrative adjudication system and one group which shall be a sample of drivers in the demonstration area with driver's license numbers ending in "3", who shall be cited into the municipal court system for a period of two years, or as long as is necessary to achieve a statistically valid analysis, beginning on October 1, 1980. When there is an adequate sample of drivers, the effectiveness of postconviction traffic safety education treatments shall be scientifically evaluated. The evaluation shall utilize randomized treatment assignment and any other control procedures deemed necessary to assure the statistical validity of the study. The study shall include a sufficient sample of drivers who shall be assigned to a minimum of three groups: (1) traffic violator schools accredited pursuant to Sections 1660 and 1661, (2) the department's group educational meeting or experimental home study program, and (3) a no-treatment control group. Drivers subject to the study shall be assigned to the treatment categories when they have at least one prior conviction but no more than four prior convictions, except those drivers subject to Section 12810.5 shall have no more than six prior convictions in the 12 months preceding the assigned treatment. The evaluation shall examine the effectiveness of each treatment category in terms of costs and accident or violation reduction. This section shall not be construed as a limitation on the board's authority to establish a uniform sanction model.

SEC. 10. Article 9 (commencing with Section 40760) is added to Chapter 2.5 of Division 17 of the Vehicle Code, to read:

Article 9. Termination and Transition

40760. Pursuant to Section 40750.5, the administrative adjudication demonstration program will end on July 1, 1985. It is the intent of the Legislature that the transition from administrative adjudication to court adjudication be expeditious, and yet not impose unnecessary operational and fiscal burdens on the courts. The board may develop administrative guidelines and procedures to facilitate this transition, including, but not limited to, procedures to notify cited motorists whose driver licenses have been suspended or revoked pursuant to Section 40701 of this code, that their unresolved citations will be transferred to the jurisdiction of the courts effective July 1, 1985.

40761. All driving privilege suspensions and revocations imposed by the board pursuant to Section 40701 and in effect on July 1, 1985, shall remain in effect until the cited person has complied with all the applicable orders of the board or hearing officer. The municipal court for the district where the underlying citation was issued shall have jurisdiction to determine whether the cited person has so

complied, and shall promptly notify the department when such a suspension or revocation is terminated. Upon termination of a suspension or revocation, a fee of twenty dollars ($20) shall be paid to the court, for deposit into the general fund of the county in addition to any other fees required by this code. However, the court may waive this fee for good cause shown.

40762. (a) Notwithstanding any other provision of this chapter, the board shall not adjudicate notices to appear or notices of violation issued after December 31, 1984. The issuance and adjudication of these citations shall be governed by applicable provisions of this code other than this chapter.

(b) Commencing July 1, 1985, the municipal court for the judicial district where a notice to appear was issued pursuant to Section 40675 shall, with respect to any matter that has not been fully adjudicated by the board, have jurisdiction to receive bail, to adjudicate the matter, and to impose sentence in accordance with Division 18 (commencing with Section 42000). The clerk of the court may fix bail based upon the bail schedules in effect at the time of payment or accept payment of sanctions established by the board, and any payment of sanctions to the court shall be deemed a deposit of bail for all purposes. The citation form, approved pursuant to subdivision (g) of Section 40666 shall constitute a complaint to which the cited person may enter a plea.

SEC. 11. 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 1117

An act to amend Sections 713, 1053, 1055, 3031, 3700, 4332, 4751, and 7149 of, to repeal Section 7150.5 of, to repeal and add Section 7150 of, to add Sections 1054.5 and 7151 to, and to add and repeal Section 7161 of, the Fish and Game Code, relating to fishing and hunting licenses.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 713 of the Fish and Game Code is amended to read:

713. (a) Not later than August 1 of each year, the Department of Finance shall submit to the department a factor which reflects

changes in an inflationary index developed by the Department of Finance, calculated by comparing the department's cost of salaries, staff benefits, and operating expenses paid from the Fish and Game Preservation Fund in the fiscal year ending on June 30 of that same year with those costs in the base fiscal year designated in paragraphs (1) to (4), inclusive of subdivision (b).

(b) The base years for determining the inflationary index shall be as follows:

(1) The 1977–78 fiscal year for hunting licenses, hunting license stamps, and deer tags.

(2) The 1984–85 fiscal year for resident bear tags.

(3) The 1980–81 fiscal year for nonresident bear tags.

(4) The 1982–83 fiscal year for sport fishing licenses and sport fishing license stamps.

(c) The factor shall be multiplied by the individual base fee for each license, stamp, or tag. The product shall be rounded to the nearest twenty-five cents ($0.25), and the resulting amount shall be the fee for any license year beginning on or after January 1 of the next succeeding calendar year for any license, stamp, or tag which is adjusted under this section pursuant to other provisions of this code.

SEC. 2. Section 1053 of the Fish and Game Code is amended to read:

1053. Not more than one license or not more than the number of license tags authorized by statute or regulation of the same class shall be issued to or purchased by a person for the same license year, except upon:

(a) The expiration of the license.

(b) The filing of an affidavit showing the loss or destruction of an unexpired license or license tag previously issued and payment of the full fee.

(c) The filing of an affidavit showing the loss or destruction of an unexpired commercial fishing license or packing and processing license and payment of a fee of five dollars ($5).

(d) The filing of an affidavit showing the loss or destruction of an unexpired sport fishing or hunting license, and payment of a fee of two dollars ($2). Duplicate sport fishing or hunting licenses issued pursuant to this subdivision shall be issued only by the department.

Any person authorized by the department to issue licenses may administer the oath for purposes of the affidavit without any fee. Each of the affidavits provided for under subdivisions (b), (c), and (d) shall be filed with the department at the times and in the manner prescribed by the department.

SEC. 2.5. Section 1054.5 is added to the Fish and Game Code, to read:

1054.5. The department may issue licenses, license stamps, and license tags. No commissioner and no person employed in the department may sell licenses as a license agent pursuant to Section 1055.

SEC. 3. Section 1055 of the Fish and Game Code is amended to read:

1055. (a) The department may authorize any person to be a license agent to sell licenses, license stamps, and license tags. It may deliver licenses, license stamps, and license tags to license agents without receiving payment therefor, upon application of the license agent, and upon the giving of a bond as provided in this article.

(b) A license agent authorized under subdivision (a) may add a handling charge to the fees for licenses, license stamps, and license tags in an amount not to exceed the following amounts:

(1) Two dollars ($2) for each certificate of boat registration.

(2) One dollar ($1) for each commercial salmon vessel permit.

(3) Fifty cents ($0.50) for each commercial fishing license or commercial passenger fishing boat license.

(4) Fifty cents ($0.50) for each sport fishing license or for each hunting license.

(5) Fifty cents ($0.50) for each deer tag application or bear tag application.

(c) No handling charge shall be added for any hunting license stamp or sport fishing license stamp.

(d) The handling charge shall be in addition to the fee for the license or tag, except the Colorado River special use stamp issued pursuant to Section 7180, for which the compensation shall be fifteen cents ($0.15) to be retained by the license agent from the total license stamp fee collected.

(e) All of the fees received for licenses, stamps, or tags, except the compensation for the Colorado River special use stamp issued pursuant to Section 7180, shall be remitted to the department within 10 days following the last day of each calendar month.

(f) The handling charge, which is added to the license, stamp, or tag fee under subdivision (b), may be retained by the license agent as compensation for sales of licenses, stamps, or tags, and no other additional fee or charge shall be made for that sale by the license agent.

SEC. 4. Section 3031 of the Fish and Game Code is amended to read:

3031. A hunting license, granting the privilege to take birds and mammals, shall be issued:

(a) To any resident of this state, over the age of 16 years, upon the payment of a base fee of ten dollars ($10) as adjusted under Section 713.

(b) To any resident of this state, under the age of 16 years, upon the payment of a base fee of two dollars ($2) as adjusted under Section 713.

(c) To any person not a resident of this state, upon the payment of a base fee of thirty-five dollars ($35) as adjusted under Section 713.

(d) To any person not a resident of this state, valid for one day and only for the taking of domesticated game birds and pheasants while on the premises of a licensed pheasant club, or for the taking of

domesticated migratory game birds on areas licensed for shooting such birds, upon the payment of a base fee of five dollars ($5) as adjusted under Section 713.

(e) To any person not a resident of this state, valid only at an organizational field trial under the provisions of Section 3510, upon the payment of a fee of seven dollars ($7).

The adjustment of the base fees under Section 713, which are specified in subdivisions (a) to (d), inclusive, of this section, shall be applicable to the hunting license years beginning on and after July 1, 1980.

SEC. 5. Section 3700 of the Fish and Game Code is amended to read:

3700. (a) It is unlawful for any person, except a person licensed pursuant to subdivision (b) of Section 3031, to take any migratory game bird, except jacksnipe, coots, gallinules, western mourning doves, white-winged doves and band-tailed pigeons, without first procuring a state duck stamp and having the state duck stamp in his possession while taking those birds.

(b) State duck stamps shall be sold for a fee of five dollars ($5) by the department, and license agents authorized by the department pursuant to Section 1055, in the same manner as hunting licenses. The commission shall determine the form of state duck stamps pursuant to Section 1050.

SEC. 6. Section 4332 of the Fish and Game Code is amended to read:

4332. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license may, upon payment of a base fee of three dollars ($3) as adjusted under Section 713, procure one license tag for the taking of one deer by one person during the current license year.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid hunting license may, upon payment of a base fee of twenty-five dollars ($25) as adjusted under Section 713, procure one license tag for the taking of one deer by one person during the current license year.

(c) If provided in regulations adopted by the commission under Section 200, any resident of this state, 12 years of age or over, who possesses a deer tag may procure one or more additional deer tags for the taking of one legal deer for each additional deer tag procured by that person during the current license season upon the payment of a base fee of five dollars ($5) as adjusted under Section 713 for each additional deer tag and as provided in the regulations adopted by the commission under Section 200.

(d) If provided in regulations adopted by the commission under Section 200, any nonresident of this state, 12 years of age or over, who possesses a deer tag may procure one or more additional deer tags for the taking of one legal deer for each additional deer tag procured by that person during the current license season upon the payment of a base fee of thirty-five dollars ($35) as adjusted under Section 713

for each additional deer tag and as provided in the regulations adopted by the commission under Section 200.

(e) The adjustment of the base fees under Section 713, which are specified in this section, shall be applicable to the hunting license years beginning on and after July 1, 1980.

SEC. 7. Section 4751 of the Fish and Game Code, as added by Section 2 of Chapter 760 of the Statutes of 1981, is amended to read:

4751. (a) Any resident of this state, 12 years of age or over, who possesses a valid hunting license, may procure the number of bear tags corresponding to the number of bear that may legally be taken by one person during the current license year, upon payment of the following fee for each bear tag:

(1) For the hunting license year beginning July 1, 1984, the fee is seven dollars and fifty cents ($7.50).

(2) For the hunting license year beginning July 1, 1985, the fee is ten dollars ($10).

(3) For the hunting license year beginning on July 1, 1986, the fee is ten dollars ($10).

(4) For the hunting license years beginning on or after July 1, 1987, the fee is the base fee of ten dollars ($10) as adjusted under Section 713.

(b) Any nonresident of this state, 12 years of age or over, who possesses a valid California hunting license, may procure the number of bear license tags corresponding to the number of bear that may be legally taken by one person during the current license year upon payment of the base fee of seventy-five dollars ($75) as adjusted under Section 713 for each bear tag. The adjustment to the base fee under Section 713, which is specified in this subdivision, shall be applicable in the hunting license years beginning on and after July 1, 1983.

SEC. 8. Section 7149 of the Fish and Game Code is amended to read:

7149. (a) A sport fishing license granting the privilege to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit shall be issued to any of the following:

(1) A resident of this state, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment for the license year beginning January 1, 1984, of a fee of thirteen dollars ($13) or upon payment for the license year beginning on or after January 1, 1985, of the base fee of thirteen dollars ($13) as adjusted under Section 713.

(2) A nonresident, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment for the license year beginning on January 1, 1984, of a fee of thirty-five dollars ($35) or upon payment for the license year beginning on or after January 1, 1985, of the base fee of thirty-five dollars ($35) as adjusted under Section 713.

(3) A nonresident, over the age of 16 years, for a period of 10 consecutive days beginning on the date of purchase, upon payment

during the license year beginning on January 1, 1984, of a fee of thirteen dollars ($13) or upon payment during the license year beginning on or after January 1, 1985, the base fee of thirteen dollars ($13) as adjusted under Section 713.

(b) A sport ocean fishing license granting the licensee to take any fish from ocean waters of this state for purposes other than profit shall be issued to any of the following:

(1) A resident of this state, over the age of 16 years, for the period of a calendar year or, if issued after the beginning of the year, for the remainder thereof, upon the payment for the license year beginning on January 1, 1984, of a fee of seven dollars and fifty cents ($7.50) or upon payment for the license year beginning on or after January 1, 1985, of the base fee of seven dollars and fifty cents ($7.50) as adjusted under Section 713.

(2) A nonresident, over the age of 16 years, for a period of five consecutive days beginning on the date of purchase, upon the payment during the license year beginning January 1, 1984, of a fee of seven dollars and fifty cents ($7.50) or upon payment during the license year beginning on or after January 1, 1985, of the base fee of seven dollars and fifty cents ($7.50) as adjusted under Section 713.

(c) A sport ocean fin fishing license granting the privilege to take only fin fish from the ocean waters of this state for purposes other than profit shall be issued to a person over the age of 16 years for one designated day, upon the payment for a designated day in the license year beginning on January 1, 1984, of a fee of three dollars ($3) or upon payment for a designated day in the license year beginning on or after January 1, 1985, of the base fee of three dollars ($3) as adjusted under Section 713.

(d) For the purposes of this section, the sport fishing license fees for the license year beginning January 1, 1984, shall be the fees specified in this section, and the adjustment under Section 713 shall be calculated and added to the base fees for the license years beginning on and after January 1, 1985, in accordance with Section 713.

(e) California sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses, and no compensation shall be paid to the license agent for sale of the stamps except as provided in Section 1055.

SEC. 9. Section 7150 of the Fish and Game Code is repealed.

SEC. 10. Section 7150 is added to the Fish and Game Code, to read:

7150. (a) Upon application to the Department of Fish and Game Headquarters Office, Sacramento, and payment of a fee of two dollars ($2), the following persons, who have not been convicted of any violation of this code, shall be issued a reduced fee sport fishing license, which is valid for the calendar year of issue, or, if issued after the beginning of the year, for the remainder thereof, and which authorizes the licensee to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit:

(1) A disabled veteran having a 70 percent or greater service connected disability upon presentation of proof of an honorable discharge from military service and proof of the disability. Proof of the disability shall be by certification from the United States Veterans Administration or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) A person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) A person over 65 years of age who is a resident of this state and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on September 1 of each year contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section.

The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a reduced fee license during the following calendar year.

(b) A person applying for a reduced fee fishing license shall submit adequate documentation for the department to determine whether the applicant is, in fact, eligible for a reduced fee fishing license. The documentation shall be in the form of a letter or other document, as specified by the department, from a public agency, except as provided in paragraph (1) of subdivision (a). The department shall not issue a reduced fee fishing license to any person unless it is satisfied that the applicant has provided adequate documentation of eligibility for a reduced fee license.

SEC. 11. Section 7150.5 of the Fish and Game Code is repealed.

SEC. 12. Section 7151 is added to the Fish and Game Code, to read:

7151. (a) Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons, who have not been convicted of any violation of this code, shall be issued, free of any charge or fee, a free sport fishing license, which is valid for the calendar year of issue or, if issued after the beginning of the year, for the remainder thereof and which authorizes the licensee to take any fish, reptile, or amphibia anywhere in this state for purposes other than profit:

(1) A blind person upon presentation of proof of blindness. "Blind person" means a person with central vision acuity of 20/200 or less in the better eye, with the aid of the best possible correcting glasses, or central visual acuity better than 20/200 if the widest diameter of the remaining visual field is no greater than 20 degrees. Proof of blindness shall be by certification from a qualified licensed optometrist or opthamologist or by presentation of a license issued pursuant to this paragraph in the preceding license year.

(2) Every resident Indian who, in the discretion of the

department, is financially unable to pay the fee required for the license.

(3) Upon certification by the person in charge of a state hospital, a person who is a ward of the state and who is a patient in, and resides in, the state hospital.

(4) Upon certification by the person in charge of the regional center for the developmentally disabled, a developmentally disabled person receiving services from the regional center.

(5) A person who is a resident of the state and who is so severely physically disabled as to be permanently unable to move from place to place without the aid of a wheelchair, walker, or fore-arm crutches.

(b) On January 15 of each year, the department shall determine the number of free sport fishing licenses issued under subdivision (a) to blind persons, indigent resident Indians, wards of the state, developmentally disabled persons, and physically disabled persons.

(c) There shall be appropriated from the General Fund a sum equal to two dollars ($2) per free sport fishing license issued under subdivision (a), as determined by the department pursuant to subdivision (b). That sum may be appropriated annually in the Budget Act for transfer to the Fish and Game Preservation Fund and appropriated in the Budget Act from the Fish and Game Preservation Fund to the department for the purposes of this part.

SEC. 13. Section 7161 is added to the Fish and Game Code, to read:

7161. (a) The department, in consultation with the chairman of the standing committees designated by the Speaker of the Assembly and the Senate Rules Committee, shall evaluate a computer retrieval program to determine the benefits from compiling lists of sport fishing license holders.

(b) The evaluation shall be submitted to each house of the Legislature on or before March 31, 1984.

(c) The department shall consider, but not be limited to, the following factors in the evaluation:

(1) Communication with sport fishermen.

(2) An annual mail registration program, including the potential increase in licenses issued through a mail registration program.

(3) Revenues from sales of the complied list.

(4) Costs associated with the establishment and maintenance of the compiled list.

(5) A cost-benefit analysis.

(d) 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, 1984, deletes or extends that date.

CHAPTER 1118

An act to amend Sections 1203.4, 1203.4a, and 1203.45 of the Penal Code, relating to records.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 1203.4 of the Penal Code is amended to read:

1203.4. (a) In any case in which a defendant has fulfilled the conditions of probation for the entire period of probation, or has been discharged prior to the termination of the period of probation, or in any other case in which a court, in its discretion and the interests of justice, determines that a defendant should be granted the relief available under this section, the defendant shall, at any time after the termination of the period of probation, if he is not then serving a sentence for any offense, on probation for any offense, or charged with the commission of any offense, be permitted by the court to withdraw his plea of guilty or plea of nolo contendere and enter a plea of not guilty; or, if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and, in either case, the court shall thereupon dismiss the accusations or information against the defendant and except as noted below, he shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted, except as provided in Section 13555 of the Vehicle Code. The probationer shall be informed, in his probation papers, of this right and privilege and his right, if any, to petition for a certificate of rehabilitation and pardon. The probationer may make such application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that, in any subsequent prosecution of the defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if probation had not been granted or the accusation or information dismissed; and provided further that the order shall state, and the probationer shall be informed, that the order does not relieve him of the obligation to disclose the conviction in response to any direct question contained in any questionnaire or application for public office or for licensure by any state or local agency.

Dismissal of an accusation or information pursuant to this section does not permit a person to own, possess, or have in his custody or control any firearm capable of being concealed upon the person or prevent his conviction under Section 12021.

This subdivision shall apply to all applications for relief under this section which are filed on or after November 23, 1970.

(b) Subdivision (a) of this section does not apply to any

misdemeanor which is within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a change of plea or setting aside of a verdict under this section 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 not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

SEC. 2. Section 1203.4a of the Penal Code is amended to read:

1203.4a. (a) Every defendant convicted of a misdemeanor and not granted probation shall, at any time after the lapse of one year from the date of pronouncement of judgment, if he or she has fully complied with and performed the sentence of the court, is not then serving a sentence for any offense and is not under charge of commission of any crime and has, since the pronouncement of judgment, lived an honest and upright life and has conformed to and obeyed the laws of the land, be permitted by the court to withdraw his or her plea of guilty or nolo contendere and enter a plea of not guilty; or if he or she has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty; and in either case the court shall thereupon dismiss the accusatory pleading against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense of which he has been convicted, except as provided in Section 13555 of the Vehicle Code. The defendant shall be informed of the provisions of this section, either orally or in writing, at the time he or she is sentenced. The defendant may make such application and change of plea in person or by attorney, or by the probation officer authorized in writing; provided, that in any subsequent prosecution of such defendant for any other offense, the prior conviction may be pleaded and proved and shall have the same effect as if relief had not been granted pursuant to this section.

This subdivision applies to convictions which occurred before as well as those occurring after, the effective date of this section.

(b) Subdivision (a) does not apply to any misdemeanor falling within the provisions of subdivision (b) of Section 42001 of the Vehicle Code, or to any infraction.

(c) A person who petitions for a dismissal of a charge under this section 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 not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by

the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

SEC. 3. Section 1203.45 of the Penal Code is amended to read:

1203.45. (a) In any case in which a person was under the age of 18 years at the time of commission of a misdemeanor and is eligible for, or has previously received, the relief provided by Section 1203.4 or 1203.4a, that person, in a proceeding under Section 1203.4 or 1203.4a, or a separate proceeding, may petition the court for an order sealing the record of conviction and other official records in the case, including records of arrests resulting in the criminal proceeding and records relating to other offenses charged in the accusatory pleading, whether defendant was acquitted or charges were dismissed. If the court finds that the person was under the age of 18 at the time of the commission of the misdemeanor, and is eligible for relief under Section 1203.4 or 1203.4a or has previously received such relief, it may issue its order granting the relief prayed for. Thereafter the conviction, arrest, or other proceeding shall be deemed not to have occurred, and the petitioner may answer accordingly any question relating to their occurrence.

(b) This section applies to convictions which occurred before, as well as those which occur after, the effective date of this section.

(c) This section shall not apply to offenses for which registration is required under Section 290, to violations of Division 10 (commencing with Section 11000) of the Health and Safety Code, or to misdemeanor violations of the Vehicle Code relating to operation of a vehicle or of any local ordinance relating to operation, standing, stopping, or parking of a motor vehicle.

(d) This section does not apply to a person convicted of more than one offense, whether the second or additional convictions occurred in the same action in which the conviction as to which relief is sought occurred or in another action, except in the following cases:

(1) One of the offenses includes the other or others.

(2) The other conviction or convictions were for the following:

(i) Misdemeanor violations of Chapters 1 (commencing with Section 21000) to 9 (commencing with Section 22500), inclusive, or Chapters 12 (commencing with Section 23100) to 14 (commencing with Section 23340), inclusive, of Division 11 of the Vehicle Code, other than Section 23103, 23104, 23152, 23153, or 23220.

(ii) Violation of any local ordinance relating to the operation, stopping, standing, or parking of a motor vehicle.

(3) The other conviction or convictions consisted of any combination of paragraphs (1) and (2).

(e) This section shall apply in any case in which a person was

under the age of 21 at the time of the commission of an offense as to which this section is made applicable if that offense was committed prior to March 7, 1973.

(f) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(g) A person who petitions for an order sealing a record under this section 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 not to exceed sixty dollars ($60), and to reimburse any city for the cost of services rendered at a rate to be determined by the city council not to exceed sixty dollars ($60). Ability to make this reimbursement shall be determined by the court using the standards set forth in paragraph (2) of subdivision (f) of Section 987.8 and shall not be a prerequisite to a person's eligibility under this section. The court may order reimbursement in any case in which the petitioner appears to have the ability to pay, without undue hardship, all or any portion of the cost for services established pursuant to this subdivision.

CHAPTER 1119

An act to amend Sections 22454, 24005, 24452, and 24454 of, and to add Section 24654 to, the Financial Code, relating to loans.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 22454 of the Financial Code, as amended by Section 8 of Chapter 58 of the Statutes of 1983, is amended to read:

22454. (a) Except as provided in Article 3 (commencing with Section 22480), all charges on loans made under this division shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and shall be so expressed in every obligation signed by the borrower. The charges on loans shall be computed on the basis of the number of days actually elapsed, for the purpose of which computations a month is any period of 30 consecutive days.

(b) The loan contract shall provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor

more than 1 month and 15 days from the date the loan is made.

This subdivision shall not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a postbaccalaureate degree.

(c) This section shall not apply to open end loans.

SEC. 2. Section 24005 of the Financial Code is amended to read:

24005. "Charges" do not include commissions received as a licensed insurance agent or broker in connection with insurance written as provided in Section 24458, court costs, excluding attorney's fees, incurred in a suit and recovered against a debtor who defaults on his or her loan, or fees paid to a licensee for a charge or credit card which entitles a cardholder to participate in an open end credit program, which fees are to cover administrative costs and are imposed upon the issuance of the charge or credit card and on annual renewal dates or anniversary dates thereafter.

SEC. 3. Section 24452 of the Financial Code is amended to read:

24452. (a) As used in this division, "open end credit program" means a licensee's plan for making open end loans pursuant to a loan agreement which sets forth the terms and conditions governing the use of the open end credit program and expressly states that it is made pursuant to this section and pursuant to which:

(1) The borrower may use the open end credit program to obtain money, goods, labor, or services on credit, and the licensee makes open end loans to the borrower for the purpose of paying money to, or at the direction of, the borrower or paying obligations that the borrower creates through use of the open end credit program.

(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) The minimum monthly payment shall be determined by either of the following:

(1) The amount that would result in the full repayment of principal over not more than the maximum periods set forth below opposite the respective size of the 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 $5,000	60 months and 15 days

The minimum payment shall continue at the amount determined pursuant to this paragraph 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.

(2) The amount calculated by multiplying the unpaid balance at the end of each billing cycle by a percent agreed upon by the borrower and the licensee, which shall be no less than 5 percent.

(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) Section 24455 shall apply to open end loans with the following variations:

(1) To comply with Section 24455, in the case of open end loan advances directly to the borrower, 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.

(2) To comply with Section 24455, in the case of an open end loan advance in the form of a payment by the licensee to a person from

whom a borrower obtained money, goods, labor or services, the licensee shall deliver to such person such amounts, at such times, as to fulfill the obligation to such person under the transaction.

(g) If an open end credit program is not primarily for the purpose of purchasing or leasing goods or services from the licensee, then all credit extended through use of the program, including transactions that involve the purchase or lease of goods or services from the licensee, shall be subject to this division.

(h) 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 (12 C.F.R. 226 et seq.), 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.

(i) Subdivision (a) of Section 24401, Sections 24404, 24462, and subdivision (b) of Section 24473 shall not apply to a licensee who makes advances solely through an open end credit program. 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.

(j) Section 24480 shall not apply to open end loans.

(k) 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.

(*l*) The payment of fees for participation in an open end credit program, the acceptance by a borrower of the form of the licensee's program and the borrower's agreement to the licensee's program shall not be deemed to be a collateral sale, purchase, or agreement within the terms of Section 24004, 24456 or 24457.

(m) This section shall not apply to loans other than open end loans.

SEC. 4. Section 24454 of the Financial Code, as amended by Section 18 of Chapter 58 of the Statutes of 1983, is amended to read:

24454. (a) Except as provided in Section 24451.3 and in Article 3 (commencing with Section 24480), all charges on loans made under this division shall be computed and paid only as a percentage per month of the unpaid principal balance or portions thereof, and shall be so expressed in every obligation signed by the borrower. The charges on loans shall be computed on the basis of the number of days actually elapsed, for the purpose of which computations a month is any period of 30 consecutive days.

(b) The loan contract shall provide for payment of the aggregate amount contracted to be paid in substantially equal periodical installments, the first of which shall be due not less than 15 days nor more than 1 month and 15 days from the date the loan is made.

This subdivision shall not apply to a loan made to a graduate student at an accredited college or university while the student is actively pursuing a study program leading to a postbaccalaureate degree.

(c) This section shall not apply to open end loans.

SEC. 5. Section 24654 is added to the Financial Code, to read:

24654. No provision imposing liability under this division, including the provisions of subdivision (a) of Section 24651 and subdivision (a) of 24652, shall apply to any act done or omitted in good faith in conformity with any written general rule, regulation, or specific ruling of the commissioner, notwithstanding that after the act or omission has occurred, the written general rule, regulation, or

specific ruling is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

CHAPTER 1120

An act to add Sections 14081.1 and 14125 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 14081.1 is added to the Welfare and Institutions Code, to read:

14081.1. (a) The Legislature finds and declares the need to improve the reporting relationship between the state and hospitals eligible to contract with the state for the provision of inpatient services to Medi-Cal eligible persons as provided for in the Medi-Cal reform legislation enacted during the 1981–82 Legislative Session.

(b) Existing statutes require hospitals to file a multiplicity of reports with various state agencies for a variety of purposes, including, but not limited to, the development of Medi-Cal reimbursement rates for inpatient services. The Medi-Cal reform legislation enacted during the 1981–82 Legislative Session significantly altered the manner in which hospitals are reimbursed under the program for these services, thereby establishing the opportunity to redefine and restructure the existing hospital reporting requirements.

(c) It is the Legislature's intent, therefore, that the existing reporting requirements be reviewed and revised for efficiency, wherever possible, with consideration given to the development of a consolidated, single, multipurpose report for use by all state agencies.

(d) It is the Legislature's further intent that, in determining these efficiencies, the purposes for which the reports are required be preserved.

SEC. 2. Section 14125 is added to the Welfare and Institutions Code, to read:

14125. (a) For purposes of this section, "hospital" means a hospital licensed pursuant to Article 1 (commencing with Section 1250) of Chapter 2 of Division 2 of the Health and Safety Code.

(b) The Secretary of the Health and Welfare Agency shall convene a task force to review current hospital financial reporting requirements and to submit to the Legislature not later than July 1, 1984, a report containing recommendations regarding the consolidation of financial reports required from hospitals pursuant to this chapter and pursuant to Article 8 (commencing with Section

437) of Chapter 5 of Part 1.5 of Division 1 of the Health and Safety Code and pursuant to the Health Facilities Disclosure Act, Article 8 (commencing with Section 441) of Chapter 5 of Part 1.7 of Division 1 of the Health and Safety Code. The report to the Legislature shall also contain a summary of state agency reports which would be deleted or significantly changed by the consolidation of financial reports.

This task force shall be composed of representatives of the State Department of Health Services, the California Medical Assistance Commission, the Office of Statewide Health Planning and Development, the California Health Facilities Commission, and other affected agencies to the extent necessary.

(c) Based upon the recommendations made in the report prepared pursuant to subdivision (b), the Health and Welfare Agency shall develop a consolidated, single, multipurpose report to be submitted by hospitals to meet the reporting requirements of all state agencies as specified in subdivision (b) by January 1, 1985, to the extent technically feasible. The secretary or his or her designee shall consult with the affected state agencies not under his or her jurisdiction in the development of regulations to implement the consolidated, single, multipurpose report.

CHAPTER 1121

An act to amend Sections 22816 and 22816.5 of the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983.]

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 (a) 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 (b) who is laid off and has not yet obtained other employment, for a period of up to one year, or (c) 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.

SEC. 2. Section 22816.5 of the Government Code is amended to read:

22816.5. An employee of the California State University system who is granted a leave of absence for more than halftime, or an employee who is laid off and has not obtained other employment, may maintain enrollment in a health benefit plan under this part, for a period of up to one year, provided the employee pays the contributions otherwise required of the Trustees of the California State University system on account of the employee's enrollment.

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

In order that this act become operative during the 1983–84 fiscal year, it is necessary that it take effect immediately.

CHAPTER 1122

An act to amend Sections 1042, 1500, and 10555 of the Education Code, and to repeal Section 20 of Chapter 1093 of the Statutes of 1981, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 1042 of the Education Code is amended to read:

1042. County boards of education may:

(a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

(b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before the annual itemized estimate is filed with the auditor as required by Section 29040 of the Government Code and make such revisions, reductions or additions therein that it deems advisable and proper. No itemized estimate shall be filed by the county superintendent of schools or be approved by the board of supervisors until it has first been so reviewed and approved by the county board of education.

(c) In the name by which the board of education is designated, acquire, lease, lease-purchase, hold and convey real property for the purpose of housing the offices and the services of the county superintendent of schools, except that this subdivision shall only apply to the county boards of education to which all or a portion of the duties and functions of the county board of supervisors specified in subdivision (b) of Section 1080 have been transferred with the

exception of the recreational duties and recreational functions specified in subdivisions (c) and (e) of Section 1080.

(d) Contract with and employ any persons for the furnishing to the board of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if these persons are specially trained and experienced and competent to perform the special services required. The board may pay from any available funds such compensation to such persons as it deems proper for the services rendered.

SEC. 2. Section 1500 of the Education Code is amended to read:

1500. All expenses shall be paid out of the County School Service Fund necessary for the county board of education and the county superintendent of schools to perform the duties, render the services and comply with the provisions of Sections 1042, 1250, 1252, 1270, 1297, 1299, 1330, 1601, 1602, 1702, 1925, 5050, 41020, 41360, 42621, 42622, 45035, 45056, 56072, 56720, 60601, 60602, 60605, 84040, 85221, 85222, 78842, 87809, and 87829, and with the provisions of Part 1 (commencing with Section 100) of Division 1 of the Unemployment Insurance Code.

The provisions of this section shall not be construed to prohibit support from the county general fund from being provided for duties and services performed pursuant to the sections and part enumerated above.

SEC. 3. Section 10555 of the Education Code is amended to read:

10555. From funds appropriated by Section 4 of this act there shall be allocated to the County Superintendent of Schools of Sacramento County the sum of two hundred seventy-five thousand dollars ($275,000) annually for each of the fiscal years 1975–76 to 1977–78, inclusive. Such funds shall be used exclusively for operation of the independent data-processing center. Immediately upon receipt thereof such funds shall be deposited in the data-processing center account.

Such allocation shall be made by the Department of Education pursuant to an agreement between the department and the county superintendent of schools, the terms and conditions of the agreement having first been approved by the board of the independent data-processing center. The agreement is subject to the approval of the Department of Finance.

The amounts allocated pursuant to this section shall be repaid during the 10 fiscal years 1978–79 to 1987–88, inclusive, with interest-only payments during the 1981–82 and 1982–83 fiscal years at the same rate as the rate returned by the investment of state funds through the Pooled Money Investment Fund, as determined by the Department of Finance. The balance due and payable as of July 1, 1983, shall be repaid during the five fiscal years 1983–84 to 1987–88, inclusive, together with interest computed at the same rate as the rate returned by the investment of state funds through the Pooled Money Investment Fund on June 30, 1983, as determined by the Department of Finance. There shall be no penalty for early

repayment.

Participating local educational agencies shall be obligated for the repayment of funds allocated pursuant to this section. The amount to be repaid by each participating local educational agency shall be determined on the basis of the proportionate usage of the independent data-processing center, as measured by criteria established by unanimous consent of the participating agencies.

In the event the participating agencies do not unanimously agree as to the method of computing the amount of repayment or on criteria to measure proportionate usage, the amount of repayment to be made by each of the participating agencies shall be computed in any reasonable manner determined by the board of the independent data-processing center and approved by the Department of Finance.

The Controller shall, commencing with fiscal year 1978–79 and in each of the following nine fiscal years, deduct the total amount of the repayment due in that fiscal year from a participating local educational agency by withholding one-half of the amount due in that fiscal year from each of the first and second principal apportionments made to such local agencies in each of the 10 fiscal years commencing with 1978–79.

SEC. 4. Section 20 of Chapter 1093 of the Statutes of 1981 is repealed.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the repayment period for agencies operating independent data-processing centers, and to increase the flexibility of county boards of education n performing heir duties t he earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1123

An act to add Section 33030.5 to the Health and Safety Code, relating to redevelopment.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 33030.5 is added to the Health and Safety Code, to read:

33030.5. The California Debt Advisory Commission created pursuant to Section 8855 of the Government Code shall conduct a study of each redevelopment agency created pursuant to this part

and submit a report to the Legislature on or before July 1, 1984, containing all of the following information:

(a) The amount of outstanding indebtedness of each agency as of a date specified by the commission.

(b) The portion of property tax revenues within a project area which would otherwise be payable to affected taxing entities if a redevelopment plan did not contain a provision providing for the allocation of taxes pursuant to Section 33670.

(c) The potential liability of the State of California in the event of a default by a redevelopment agency on any bonds.

(d) The amount of housing provided to persons and families of low or moderate income, as defined by Section 50093, and to very low income households, as defined by Section 50105. For purposes of this subdivision, the commission shall utilize the information contained in the reports prepared by redevelopment agencies pursuant to Section 33080.1 and filed with the Department of Housing and Community Development pursuant to Section 33080.

To the extent feasible, the commission shall obtain and utilize information from the Department of Housing and Community Development and the Controller in preparing the report required by this section.

CHAPTER 1124

An act to amend Sections 798.3, 798.55, 798.56, 798.79, 1981, and 3051 of, to add Section 3067.2 to, and to repeal Section 3075 of, the Civil Code, to amend Sections 700.080, 700.090, 1161a, and 1166a of the Code of Civil Procedure, to amend Section 9203 of the Commercial Code, to amend Sections 18005.3, 18005.8, 18009.5, 18035, 18035.1, 18036.5, 18037, 18080, 18080.5, 18085, 18090.5, 18092.5, 18093, 18099.5, 18100.5, 18105, 18119, 18122, and 18123.5 of, to amend and renumber Section 18035.2 of, to add Sections 18035.2, 18035.5, 18037.5, 18039.5, 18080.1, 18080.4, 18080.7, 18084.7, and 18106 to, and to repeal Sections 18035.5, 18037.5, 18082, 18093.5, 18103.5, 18104, and 18104.5 of, the Health and Safety Code, to amend Section 10910 of the Revenue and Taxation Code, and to amend Sections 387 and 35790 of the Vehicle Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 798.3 of the Civil Code is amended to read:

798.3. "Mobilehome" is a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Section 35790 of the Vehicle Code. Mobilehome includes

a manufactured home, as defined in Section 18007 of the Health and Safety Code, and a mobilehome, as defined in Section 18008 of the Health and Safety Code, but does not include a recreational vehicle, as defined in Section 799.24 of this code and Section 18010 of the Health and Safety Code or a commercial coach as defined in Section 18001.8 of the Health and Safety Code.

SEC. 2. Section 798.55 of the Civil Code, as amended by Chapter 519 of the Statutes of 1983, is amended to read:

798.55. (a) The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.

(b) The management shall not terminate or refuse to renew a tenancy, except for a reason specified in this article and upon the giving of written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, as defined in Section 18005.8 of the Health and Safety Code, each junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, and the registered owner of the mobilehome, if other than the homeowner, by United States mail within 10 days after notice to the homeowner, addressed to the legal owner, each junior lienholder, and the registered owner at their addresses, as set forth in the registration card specified in Section 18091.5 of the Health and Safety Code.

SEC. 3. Section 798.56 of the Civil Code, as amended by Chapter 519 of the Statutes of 1983, 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 or resident 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 or resident, upon the park premises, which constitutes a substantial annoyance to other homeowners or residents.

(c) Failure of the homeowner or resident 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 or resident 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 or resident 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 or resident 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 homeowner prior to the expiration of the three-day notice period, or payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 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, each junior lienholder, and the 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, any junior lienholder, or the 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 or her 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. 4. Section 798.79 of the Civil Code is amended to read:

798.79. Any legal owner or junior lienholder who forecloses on his or her security interest in a mobilehome located in a mobilehome park shall have the right to sell the mobilehome within the park to a third party in accordance with the provisions of this article, but only if all the homeowner's responsibilities and liabilities to the management regarding rent, utilities, and reasonable maintenance of a mobilehome and its premises are satisfied by the foreclosing creditor through the date the mobilehome is resold.

SEC. 5. Section 1981 of the Civil Code is amended to read:

1981. (a) This chapter provides an optional procedure for the disposition of personal property which remains on the premises after a tenancy has terminated and the premises have been vacated by the tenant.

(b) This chapter does not apply where Section 1862.5, 2080.8, 2080.9, or 2081 to 2081.6, inclusive, applies. This chapter does not apply to property which exists for the purpose of providing utility services and is owned by a public utility, whether or not such property is actually in operation to provide such utility services.

(c) This chapter does not apply to any manufactured home as defined in Section 18007 of the Health and Safety Code, any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, including attachments thereto or contents thereof, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

(d) If the requirements of this chapter are not satisfied, nothing in this chapter affects the rights and liabilities of the landlord, former tenant, or any other person.

SEC. 6. Section 3051 of the Civil Code is amended to read:

3051. Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for

his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid; and foundry proprietors and persons conducting a foundry business, have a lien, dependent on possession, upon all patterns in their hands belonging to a customer, for the balance due them from such customers for foundry work; and plastic fabricators and persons conducting a plastic fabricating business, have a lien, dependent on possession, upon all patterns and molds in their hands belonging to a customer, for the balance due them from such customer for plastic fabrication work; and laundry proprietors and persons conducting a laundry business, and drycleaning establishment proprietors and persons conducting a drycleaning establishment, have a general lien, dependent on possession, upon all personal property in their hands belonging to a customer, for the balance due them from such customer for laundry work, and for the balance due them from such customers for drycleaning work, but nothing in this section shall be construed to confer a lien in favor of a wholesale drycleaner on materials received from a drycleaning establishment proprietor or a person conducting a drycleaning establishment; and veterinary proprietors and veterinary surgeons shall have a lien dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals.

This section shall have no application to any vessel, as defined in Section 21 of the Harbors and Navigation Code, to any vehicle, as defined in Section 670 of the Vehicle Code, which is subject to registration pursuant to that code, to any manufactured home, as defined in Section 18007 of the Health and Safety Code, to any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

SEC. 6.5. Section 3051 of the Civil Code is amended to read:

3051. Every person who, while lawfully in possession of an article of personal property, renders any service to the owner thereof, by labor or skill, employed for the protection, improvement, safekeeping, or carriage thereof, has a special lien thereon, dependent on possession, for the compensation, if any, which is due to him from the owner for such service; a person who makes, alters, or repairs any article of personal property, at the request of the owner, or legal possessor of the property, has a lien on the same for his reasonable charges for the balance due for such work done and materials furnished, and may retain possession of the same until the charges are paid; and foundry proprietors and persons conducting a foundry business, have a lien, dependent on possession, upon all patterns in their hands belonging to a customer, for the balance due them from such customers for foundry work; and plastic fabricators and persons conducting a plastic fabricating business, have a lien, dependent on possession, upon all patterns and molds in their hands

belonging to a customer, for the balance due them from such customer for plastic fabrication work; and laundry proprietors and persons conducting a laundry business, and drycleaning establishment proprietors and persons conducting a drycleaning establishment, have a general lien, dependent on possession, upon all personal property in their hands belonging to a customer, for the balance due them from such customer for laundry work, and for the balance due them from such customers for drycleaning work, but nothing in this section shall be construed to confer a lien in favor of a wholesale drycleaner on materials received from a drycleaning establishment proprietor or a person conducting a drycleaning establishment; and a carrier has a lien on freight in its possession for the total amount owed the carrier by the shipper for freightage, charges for services, and advances due on freight in the carrier's possession and freight previously delivered upon promise of the shipper to pay freightage, charges, and advances, except that no lien shall survive in connection with a previously delivered shipment unless the carrier has notified the shipper, in writing, that failure to pay billed charges may result in a lien on future shipments; and veterinary proprietors and veterinary surgeons shall have a lien dependent on possession, for their compensation in caring for, boarding, feeding, and medical treatment of animals.

This section shall have no application to any vessel as defined in Section 21 of the Harbors and Navigation Code or to any vehicle as defined in Section 670 of the Vehicle Code which is subject to registration pursuant to that code, to any manufactured home, as defined in Section 18007 of the Health and Safety Code, to any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

SEC. 7. Section 3067.2 is added to the Civil Code, to read:

3067.2. This chapter shall not apply to any manufactured home, as defined in Section 18007 of the Health and Safety Code, to any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

SEC. 8. Section 3075 of the Civil Code is repealed.

SEC. 9. Section 700.080 of the Code of Civil Procedure is amended to read:

700.080. (a) To levy upon personal property used as a dwelling, the levying officer shall serve a copy of the writ of execution and a notice of levy on one occupant of the property. Service on the occupant shall be made by leaving the copy of the writ and the notice of levy with the occupant personally or, in the occupant's absence, with a person of suitable age and discretion found at the property

when service is attempted who is a member of the occupant's family or household. If unable to serve such an occupant at the time service is attempted, the levying officer shall make the levy by posting the copy of the writ and the notice of levy in a conspicuous place on the property.

(b) If the judgment creditor so instructs, the levying officer shall place a keeper in charge of the property for a period requested by the judgment creditor.

(c) The judgment creditor may apply to the court on noticed motion for an order directing the levying officer to remove the occupants. The notice of motion shall be served on any legal owner and any junior lienholder who was served pursuant to Section 700.090, on the occupant, and, if the judgment debtor is not the occupant, on the judgment debtor. Service shall be made personally or by mail. At the hearing on the motion the court shall determine the occupant's right to possession and shall make an order including such terms and conditions as are appropriate under the circumstances of the case.

SEC. 10. Section 700.090 of the Code of Civil Procedure is amended to read:

700.090. If a vehicle or vessel is levied upon and a certificate of ownership has been issued by the Department of Motor Vehicles for such vehicle or vessel and the certificate of ownership is still in effect, or if a manufactured home, mobilehome, or commercial coach is levied upon and a permanent title record has been established by the Department of Housing and Community Development for such manufactured home, mobilehome, or commercial coach the levying officer shall determine from the appropriate department the name and address of the legal owner and each junior lienholder of the property levied upon. If the legal owner or junior lienholder is not the judgment debtor and is not in possession of the vehicle, vessel, manufactured home, mobilehome, or commercial coach, the levying officer shall at the time of levy or promptly thereafter serve a copy of the writ of execution and a notice of levy on the legal owner or junior lienholder. Service shall be made personally or by mail.

SEC. 11. Section 1161a of the Code of Civil Procedure, as amended by Chapter 346 of the Statutes of 1983, is amended to read:

1161a. (a) As used in this section:

(1) "Manufactured home" has the same meaning as provided in Section 18007 of the Health and Safety Code.

(2) "Mobilehome" has the same meaning as provided in Section 18008 of the Health and Safety Code.

(b) In any of the following cases, a person who holds over and continues in possession of a manufactured home, mobilehome, or real property after a three-day written notice to quit the property has been served upon the person, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162, may be removed therefrom as prescribed in this chapter:

(1) Where the property has been sold pursuant to a writ of execution against such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

(2) Where the property has been sold pursuant to a writ of sale, upon the foreclosure by proceedings taken as prescribed in this code of a mortgage, or under an express power of sale contained therein, executed by such person, or a person under whom such person claims, and the title under the foreclosure has been duly perfected.

(3) Where the property has been sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

(4) Where the property has been sold by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

(5) Where the property has been sold in accordance with Section 18037.5 of the Health and Safety Code under the default provisions of a conditional sale contract or security agreement executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

(c) Notwithstanding the provisions of subdivision (b), a tenant or subtenant in possession of a rental housing unit which has been sold by reason of any of the causes enumerated in subdivision (b), who rents or leases the rental housing unit either on a periodic basis from week to week, month to month, or other interval, or for a fixed period of time, shall be given written notice to quit pursuant to Section 1162, at least as long as the term of hiring itself but not exceeding 30 days, before the tenant or subtenant may be removed therefrom as prescribed in this chapter.

(d) For the purpose of subdivision (c), "rental housing unit" means any structure or any part thereof which is rented or offered for rent for residential occupancy in this state.

SEC. 12. Section 1166a of the Code of Civil Procedure, as amended by Chapter 18 of the Statutes of 1983, is amended to read:

1166a. (a) Upon filing the complaint, the plaintiff may, upon motion, have immediate possession of the premises by a writ of possession of a manufactured home, mobilehome, or real property issued by the court and directed to the sheriff of the county, or constable or marshal, for execution, where it appears to the satisfaction of the court, after a hearing on the motion, from the verified complaint and from any affidavits filed or oral testimony given by or on behalf of the parties, that the defendant resides out of state, has departed from the state, cannot, after due diligence, be found within the state, or has concealed himself or herself to avoid the service of summons.

(b) Written notice of the hearing on the motion shall be served on the defendant by the plaintiff in accordance with the provisions of Section 1011, and shall inform the defendant as follows: "You may file affidavits on your own behalf with the court and may appear and

present testimony on your own behalf. However, if you fail to appear, the plaintiff will apply to the court for a writ of possession of a manufactured home, mobilehome, or real property."

(c) The plaintiff shall file an undertaking in such sum as shall be fixed and determined by the judge, to the effect that, if the plaintiff fails to recover judgment against the defendant for the possession of the premises or if the suit is dismissed, the plaintiff will pay to the defendant such damages, not to exceed the amount fixed in the undertaking, as may be sustained by the defendant by reason of such dispossession under the writ of possession of a manufactured home, mobilehome, or real property.

(d) If, at the hearing on the motion, the findings of the court are in favor of the plaintiff and against the defendant, an order shall be entered for the immediate possession of the premises.

(e) The order for the immediate possession of the premises may be enforced as provided in Division 3 (commencing with Section 712.010) of Title 9 of Part 2.

(f) For the purposes of this section, references in Division 3 (commencing with Section 712.010) of Title 9 of Part 2 and in subdivisions (e) to (m), inclusive, of Section 1174, to the "judgment debtor" shall be deemed references to the defendant, to the "judgment creditor" shall be deemed references to the plaintiff, and to the "judgment of possession or sale of property" shall be deemed references to an order for the immediate possession of the premises.

SEC. 13. 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, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code; the Automobile Sales Finance Act, Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of 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; the Commercial Finance Lenders Law, Division 11 (commencing with Section 26000) of the Financial Code; and the Mobilehomes-Manufactured Housing Act of 1980, Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety 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. 14. Section 18005.3 of the Health and Safety Code is amended to read:

18005.3. "Junior lienholder" means a person, other than a legal owner, holding a security interest in a manufactured home, mobilehome, or commercial coach perfected by filing the appropriate documents with the department pursuant to Section 18080.7.

SEC. 15. Section 18005.8 of the Health and Safety Code is amended to read:

18005.8. "Legal owner" means a person holding a security interest in a manufactured home, mobilehome, or commercial coach perfected by filing the appropriate documents with the department pursuant to Section 18080.7 if such person is entitled to such designation, as provided in Article 3 (commencing with Section 18085) or 4 (commencing with Section 18098) of Chapter 8.

SEC. 16. Section 18009.5 of the Health and Safety Code is amended to read:

18009.5. "Registered owner" means a person registered by the department as the owner of a manufactured home, mobilehome, or commercial coach.

SEC. 17. Section 18035 of the Health and Safety Code is amended to read:

18035. (a) For every sale by a dealer of a new or used manufactured home or mobilehome subject to registration under this part, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with or prior to the receipt of any cash or cash equivalent from the buyer, shall establish an escrow account with an escrow agent, and shall cause to be deposited into that escrow account any cash or cash equivalent received at any time prior to the close of escrow as a deposit, downpayment, or whole or partial payment for the manufactured home or mobilehome or accessory thereto. Such downpayment, or whole or partial payment, shall include an amount designated as a deposit, which may be less than or equal to the total amount placed

in escrow, and shall be subject to the provisions of subdivision (f). The parties shall provide for escrow instructions which identify the fixed amounts of the deposit, downpayment, and balance due prior to closing consistent with the amounts set forth in the purchase documents and receipt for deposit if one is required by Section 18035.1. The deposits shall be made by the dealer within three working days of receipt, one of which shall be the day of receipt. For purposes of this section, "cash equivalent" shall mean any property other than cash. If an item of cash equivalent is, due to its size, incapable of physical delivery to the escrow holder, the property may be held by the dealer for the purchaser until close of escrow and, if such property has been registered with the department or the Department of Motor Vehicles, its registration certificate and, if available, its certificate of title shall be delivered to the escrow holder.

(b) For every sale by a dealer of a new manufactured home or mobilehome, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisfied by payment from the escrow account.

(B) Such inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

(c) For every sale by a dealer of a used manufactured home or mobilehome, the escrow instructions shall provide:

(1) That the current registration card, all copies of the registration cards held by junior lienholders, and the certificate of title be placed in escrow.

(2) That, in the alternative:

(A) (i) The registered owner shall acknowledge in writing the amount of the commission to be received by the dealer for the sale of the manufactured home or mobilehome, and (ii) the registered owner shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of the escrow where the buyer has executed a security agreement

approved by the registered owner covering the unpaid balance of the purchase price.

(B) (i) The dealer shall declare in writing that the manufactured home or mobilehome is its inventory, (ii) the registered owner shall acknowledge in writing on the form prescribed by the department that the purchase price relating to the sale of the manufactured home or mobilehome to the dealer for resale has been paid in full by the dealer, (iii) the current registration card shall be appropriately executed by the registered owner to reflect the release of all of its ownership interests, and (iv) the dealer shall release all of its ownership interests in the manufactured home or mobilehome either contemporaneously upon the payment of a specified amount from the escrow account or at the close of escrow where the buyer has executed a security agreement approved by the dealer covering the unpaid balance of the purchase price.

(3) That, in the alternative, the legal owner and each junior lienholder, respectively, shall either:

(A) Release his or her security interest or transfer its security interest to a designated third party contemporaneously upon the payment of a specified amount from the escrow account.

(B) Advise the escrow agent in writing that the new buyer or the buyer's stated designee shall be approved as the new registered owner upon the execution by the buyer of a formal assumption of the indebtedness secured by his or her lien approved by the creditor at or before the close of escrow.

(d) For every sale by a dealer of a used manufactured home or mobilehome:

(1) The escrow agent, upon the opening of the escrow, shall prepare a notice of escrow opening on the form prescribed by the department and forward the completed form to the department with appropriate fees. If the escrow is cancelled for any reason before closing, the escrow agent shall prepare a notice of escrow cancellation on the form prescribed by the department and forward the completed form to the department.

(2) The escrow agent shall forward to the legal owner and each junior lienholder at their addresses shown on the current registration card a written demand for a lien status report as contemplated by Section 18035.5, and a written demand for either an executed statement of conditional lien release or an executed statement of anticipated formal assumption, and shall enclose blank copies of a statement of conditional lien release and a statement of anticipated formal assumption on forms prescribed by the department. The statement of conditional lien release shall include, among other things, (A) a statement of the dollar amount or other conditions required by the creditor in order to release or transfer its lien, and (B) the creditor's release or transfer of the lien in the manufactured home or mobilehome contingent upon the satisfaction of those conditions. The statement of anticipated formal assumption shall include, among other things, (A) a statement of the creditor's belief

that the buyer will formally assume the indebtedness secured by its lien at or before the close of escrow, and (B) the creditor's approval of the buyer or his or her designee as the registered owner upon the execution of the formal assumption.

(3) Within five days of the receipt of the written demand and documents required by paragraph (2), the legal owner or junior lienholder shall complete and execute either the statement of conditional lien release or the statement of anticipated formal assumption, as appropriate, and prepare the lien status report and forward the documents to the escrow agent by first-class mail. If the creditor is the legal owner, the certificate of ownership in an unexecuted form shall accompany the documents. If the creditor is a junior lienholder, the creditor's copy of the current registration card in an unexecuted form shall accompany the documents.

(4) If: (A) the conditions required in order for the creditor to release or transfer his or her lien are not satisfied before the end of the escrow period agreed upon in writing between the buyer and the seller or, if applicable, before the end of any extended escrow period as permitted by subdivision (g), or (B) the registered owner advises the creditor not to accept any satisfaction of his or her lien or not to permit any formal assumption of the indebtedness and the creditor or registered owner advises the escrow agent in writing accordingly, any statement of conditional lien release or statement of anticipated formal assumption executed by the creditor shall become inoperative and the escrow agent shall thereupon return the form to the creditor by first-class mail and the certificate of ownership or the copy of the current registration card, as appropriate.

(5) If a creditor willfully fails to comply with the requirements of paragraph (3) within 21 days of the receipt of the written demand and documents required by paragraph (2), the creditor shall forfeit to the escrow agent three hundred dollars ($300) except where the creditor has reasonable cause for noncompliance. The three hundred dollars ($300) shall be credited to the seller, unless otherwise provided in the escrow instructions. Any penalty paid by a creditor under this paragraph shall preclude any civil liability for noncompliance with Section 18035.5 relating to the same act or omission.

(e) The escrow instructions shall specify one of the following:

(1) Upon the buyer receiving delivery of an installed manufactured home or mobilehome on the site and the manufactured home or mobilehome passing inspection pursuant to Section 18613 or after the manufactured home or mobilehome has been delivered to the location specified in the escrow instructions when the installation is to be performed by the buyer, all funds in the escrow account, other than escrow fees and amounts for accessories not yet delivered, shall be disbursed.

(2) Upon the buyer receiving delivery of an installed manufactured home or mobilehome not subject to the provisions of Section 18613 with delivery requirements as mutually agreed to and

set forth in the sales documents, all funds in the escrow account, other than escrow fees, shall be disbursed.

(f) In the event any dispute arises between the parties to the escrow and upon notification in writing to the escrow agent, unless otherwise specified in the escrow instructions, all funds denoted as deposit shall be held in escrow until such time as a release is signed by the disputing party, or pursuant to new written escrow instructions signed by the parties involved, or pursuant to a final order for payment or division by a court of competent jurisdiction. Any other funds, other than escrow fees, shall be returned to the buyer or any person, other than the dealer or seller, as appropriate.

(g) Escrow shall be for a period of time mutually agreed upon, in writing, by the buyer and the seller. However, the parties may, by mutual consent, extend the time, in writing, with notice to the escrow agent.

(h) No dealer or seller shall establish with an escrow agent any escrow account in an escrow company in which the dealer or seller has more than a 5 percent ownership interest.

(i) The escrow instructions may provide for the proration of any local property tax due or to become due on the manufactured home or mobilehome, and if the tax, or the license fee imposed pursuant to Section 18115, or the registration fee imposed pursuant to Section 18114, is delinquent, the instructions may provide for the payment of such taxes or fees, or both, and any applicable penalties.

(j) No agreement shall contain any provision by which the buyer waives his rights under this section, and any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

(k) If a portion of the amount in the escrow is for accessories then that portion of the amount shall not be released until the accessories are actually installed.

(*l*) This section creates a civil cause of action against a buyer or dealer or other seller who violates the provisions of this section, and upon prevailing, the plaintiff in such action shall be awarded actual damages plus an amount not in excess of two thousand dollars ($2,000). In addition, attorney's fees and court costs shall also be awarded a plaintiff who prevails in such action.

SEC. 18. Section 18035.1 of the Health and Safety Code is amended to read:

18035.1. (a) As a part of the documents executed for the purchase or sale of a new or used manufactured home or mobilehome subject to registration under this part from a dealer, the dealer and buyer shall sign a receipt for deposit which shall be retained by the dealer for not less than three years. It shall state at least the following:

(1) A statement that the buyer has received a copy of the purchase contract and receipt for deposit.

(2) A statement that all portions of the receipt for deposit have been completed.

(3) Information with respect to the sale of a manufactured home or mobilehome subject to registration under this part by a dealer.

(4) A statement of the specific amounts of the deposit, downpayment, or other category of funds required to be placed in escrow prior to closing, and a warning that the deposit may be withheld in escrow in case of a dispute between the buyer and the dealer.

(5) A statement that the amounts of the deposit and downpayment must be agreed upon by the buyer and seller and shall have been entered on the purchase documents and receipt of deposit first at the time of signing.

(6) A copy of Sections 18035 and 18035.1 of the Health and Safety Code.

(7) That any oral promises or commitments that have been made are not binding unless they appear in writing on the sales agreement or other sales document.

(8) That a warranty governed by Section 1797.3 of the Civil Code accompanies the sale of a new manufactured home or mobilehome which provides that the manufacturer and dealer are jointly and individually liable for substantial defects in workmanship and materials and any other relevant warranty information.

(9) The terms and duration of any other warranty, not required by law, offered by the dealer.

(10) That if the buyer has any complaints with respect to sales practices, delivery, warranty, or other matters related to the manufactured home or mobilehome, he or she may seek administrative relief from the department or legal relief in a court of competent jurisdiction.

(11) That the sale will not be complete until the escrow for the sale closes.

(b) For the sale of a manufactured home or mobilehome not subject to registration by the department, the dealer shall provide a statement of fact containing the provisions specified in paragraphs (7), (8), (9), (10), and (11) of subdivision (a), as part of the purchase documents.

(c) Where the sale of a new or used manufactured home or mobilehome subject to registration under this part does not involve a dealer, the department by regulation may require the seller and buyer to execute a receipt for deposit containing whatever information of the nature described in subdivision (a) the department deems appropriate.

SEC. 18.5. Section 18035.1 of the Health and Safety Code, as amended by Senate Bill No. 1235 of the 1983–84 Regular Session of the Legislature, is amended to read:

18035.1. As part of the documents executed for the purchase or sale of a new or used manufactured home or mobilehome, the dealer and purchaser shall sign a receipt for deposit, a copy of which shall be provided to the purchaser and a copy shall be retained by the dealer for not less than three years. It shall state at least the following

in type not less than 6-point type size:

(a) A statement that the purchaser shall receive a copy of the purchase documents and receipt for deposit.

(b) A statement that all portions of the purchase documents and receipt for deposit shall be completed prior to obtaining the purchaser's signature.

(c) A statement of the specific amounts of the deposit, downpayment, or other category of funds required to be placed in escrow prior to closing, and a warning that the deposit may be withheld in escrow in case of a dispute between the purchaser and the dealer.

(d) A statement that the amounts of the deposit and downpayment shall be agreed upon by the purchaser and dealer and shall have been entered on the purchase documents and receipt of deposit prior to the purchaser's signing.

(e) Sections 18035, 18035.1, and 18035.3 of this code and Section 1797.3 of the Civil Code reprinted in their entirety.

(f) A statement that any oral promises or commitments that have been made are not binding unless they appear in writing on the purchase documents.

(g) A warning that a warranty document complying with Section 1797.3 of the Civil Code shall be provided to the purchaser of a new manufactured home or mobilehome immediately after signing the purchase documents.

(h) A statement that the terms and duration of any warranty, not required by law, offered by the dealer shall be in writing.

(i) A statement that if the purchaser has any complaints with respect to sales practices, delivery, warranty, or other matters related to the manufactured home or mobilehome, he or she may seek administrative relief from the department or legal relief in a court of competent jurisdiction.

(j) A statement that the sale will not be complete until the escrow for the sale closes.

Where the sale of a new or used manufactured home or mobilehome subject to registration under this part does not involve a dealer, the department by regulation may require the seller and buyer to execute a receipt for deposit containing whatever information of the nature described in this section the department deems appropriate.

SEC. 19. Section 18035.2 is added to the Health and Safety Code, to read:

18035.2. (a) For every sale by a dealer of a new or used manufactured home or mobilehome installed or to be installed on a foundation system pursuant to Section 18551, the dealer shall execute in writing and obtain the buyer's signature on a purchase order, conditional sale contract, or other document evidencing the purchase contemporaneous with or prior to the receipt of any cash or cash equivalent from the buyer and shall establish an escrow account with an escrow agent. The escrow shall not be subject to the

provisions of Section 18035.

(b) For every sale by a dealer of a new manufactured home or mobilehome installed or to be installed on a foundation system pursuant to Section 18551, the escrow instructions shall provide all of the following:

(1) That the original manufacturer's certificate of origin be placed in escrow.

(2) That, in the alternative:

(A) The lien of any inventory creditor on the manufactured home or mobilehome shall be satisified by payment from the escrow account.

(B) Such inventory creditor shall consent in writing to other than full payment.

For purposes of this paragraph, "inventory creditor" includes any person who is identified as a creditor on the manufacturer's certificate of origin or any person who places the original certificate of origin in escrow and claims in writing to the escrow agent to have a purchase money security interest in the manufactured home or mobilehome as contemplated by Section 9107 of the Commercial Code.

(3) That the escrow agent shall obtain from the manufacturer a true and correct facsimile of the copy of the certificate of origin retained by the manufacturer pursuant to Section 18093.

SEC. 19.5. Section 18035.2 of the Health and Safety Code, as added by Senate Bill No. 1235 of the 1983–84 Regular Session of the Legislature, is amended and renumbered to read:

18035.3. (a) Every purchase order, conditional sale contract, security agreement, or other purchase document executed for the sale of a new or used manufactured home, mobilehome, or commercial coach shall be in writing and printed in type no smaller than 6-point and shall contain in a single document all of the agreement of the purchaser and dealer with respect to the total cost and the terms of payment for the manufactured home, mobilehome, or commercial coach, including any accessories and services to be performed.

The conditional sale contract or a purchase order shall be signed by the purchaser, or his or her authorized representative, and by the dealer and an exact copy thereof shall be furnished to the purchaser by the dealer at the time the purchaser and the dealer have signed the purchase document. Any amendments to the purchase document shall be prepared in writing by the dealer and shall be mutually endorsed by both the dealer and the purchaser. The amendments shall not be constructed for the purpose of circumventing the provisions of this section.

The single document requirement shall not be construed to mean one page, as long as all pages are identified and referenced as being part of the document for the sale.

(b) The dealer shall not obtain the signature of the purchaser on any purchase document prepared pursuant to this section, which

contains blank spaces to be filled in after it has been signed.

(c) Every purchase document prepared pursuant to this section shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

(1) The cash price of the manufactured home, mobilehome, or commercial coach described in the document, and each accessory, structure, or service included with the purchase, and their sum total.

(2) The amount of the downpayment made by the purchaser, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for the property.

(3) The unpaid balance of the cash price, which is the difference between items (1) and (2).

(4) The cost to the purchaser of any insurance, the premium for which is included in the contract balance. Any cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

(5) The amounts of any fees, paid or to be paid, to any public agency in connection with the transaction for title, registration, permits, and taxes imposed by law.

(6) The amount of any manufactured home or mobilehome escrow fee.

(7) The amount, if any, charged by the dealer for documentary preparation. If a dealer charges a purchaser a documentary preparation charge, then the purchase document shall contain a notice advising the purchaser that the charge is not a governmental fee.

(8) The amount of the unpaid balance, which is the sum of items (3), (4), (5), (6), and (7).

(9) The amount, if any, of loan fees, credit-check fees, or any other administrative finance charge.

(10) The amount financed, which is the difference between items (8) and (9).

(11) The finance charge expressed as an annual percentage rate and expressed in dollars.

(12) The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of the payments.

(13) Complete identification and disclosure of the finance terms and conditions.

(14) A notice to the purchaser: (A) Do NOT sign this agreement before you read it or if it contains any blank spaces to be filled in. (B) You are entitled to a completely filled-in copy of this agreement, a notice of rights, and a copy of the warranty, if purchasing a new mobilehome or manufactured home.

(15) A statement whether the purchase price includes or excludes the towbar, wheels, wheel hubs, tires, and axles.

(16) A notice to the purchaser, in type no smaller than 8-point, that complaints concerning the purchase shall be referred to the dealer and, if the complaint is not resolved, may be referred to the

Department of Housing and Community Development, Division of Codes and Standards, Occupational Licensing.

SEC. 20. Section 18035.5 of the Health and Safety Code is repealed.

SEC. 21. Section 18035.5 is added to Health and Safety Code, to read:

18035.5. (a) As used in this section:

(1) "Secured party" means a legal owner or junior lienholder.

(2) "Entitled party" means a registered owner or any person holding a security interest or other lien or encumbrance which is subordinate to the security interest of the secured party or an escrow agent in conjunction with an escrow involving the sale or transfer of an interest in a manufactured home, mobilehome, or commercial coach subject to registration under this part.

(b) A secured party shall, on the written demand of an entitled person, or the authorized agent of the entitled person, prepare and deliver to the person demanding it, a true, correct, and complete copy of the conditional sale contract or the promissory note and security agreement and any subsequent modification thereto, and a written statement indicating all of the following:

(1) The amount of the unpaid balance of the obligation owing to the secured party and the interest rate, together with the total amounts, if any, of all overdue installments of either principal or interest, or both.

(2) The amounts of periodic payments, if any.

(3) The date on which the obligation is due in whole or in part.

(4) The date to which taxes and special assessments have been paid to the extent that information is known to the secured party.

(5) The amount of hazard insurance in effect and the term and premium of that insurance to the extent that information is known to the secured party.

(6) The amount in an account, if any, maintained for the accumulation of funds with which to pay taxes and insurance premiums.

(7) The nature and, if known, the amount of any additional charges, costs, or expenses paid or incurred by the secured party which have become a lien on the manufactured home, mobilehome, or commercial coach involved.

(8) If applicable, a statement indicating that subsequently incurred obligations will be secured by the manufactured home, mobilehome, or commercial coach and, if there is a maximum amount that may thereafter become secured, the maximum amount that may thereafter become secured.

(c) The secured party may, before delivering a statement, require reasonable proof that the person making the demand is, in fact, an entitled person, in which event the secured party 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 secured party 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 sales agreement covering the manufactured home, mobilehome, or commercial coach 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.

(d) Delivery of the statement by the secured party, 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.

(e) If a secured party for a period of 21 days after receipt of the written demand willfully fails to prepare and deliver the statement, the secured party is liable to the entitled person for all damages which may be sustained by reason of the refusal and, whether or not actual damages are sustained, the secured party 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 secured party 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.

(f) If the secured party 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 that branch office or place of business.

(g) The secured party may make a charge not to exceed fifty dollars ($50) for furnishing the required statement, whether or not the security agreement covering the manufactured home, mobilehome, or commercial coach so provides.

SEC. 22. Section 18036.5 of the Health and Safety Code is amended to read:

18036.5. (a) As used in this section:

(1) "Act" means the federal Truth in Lending Act, as amended (15 U.S.C., Sec. 1601, et seq.).

(2) "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System under the act and any interpretation or approval issued by an official or employee of the Federal Reserve System duly

authorized by the board under the act to issue these interpretations or approvals.

(b) A conditional sale contract relating to a new or used manufactured home or mobilehome subject to registration under this part shall contain all the disclosures required by Regulation Z if Regulation Z otherwise applies to the transaction. Any disclosure violation corrected pursuant to subdivision (d) shall not be the basis of any recovery by the buyer.

(c) With respect to a violation which is not corrected as provided in subdivision (d), the seller shall be liable to the buyer in an amount equal to the sum of:

(1) Any actual damage sustained by such person as a result of the failure;

(2) (A) In the case of an individual action twice the amount of any finance charge in connection with the transaction, except that the liability under this subparagraph shall not be less than one hundred dollars ($100) or greater than one thousand dollars ($1,000); or

(B) In the case of a class action, such amount as the court may allow, except that as to each member of the class no minimum recovery shall be applicable, and the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same seller shall not be more than the lesser of five hundred thousand dollars ($500,000) or 1 per cent of the net worth of the seller; and

(3) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court.

In determining the amount of award in any class action, the court shall consider, among other relevant factors, the amount of any actual damages awarded, the frequency and persistence of failures of compliance by the seller, the resources of the seller, the number of persons adversely affected, and the extent to which the seller's failure of compliance was intentional. In connection with the disclosures referred to in Section 128 of the act, a seller shall have a liability determined under paragraph (2) of this subdivision only for failing to comply with the requirements of paragraph (2) (insofar as it requires a disclosure of the "amount financed"), (3), (4), (5), (6), or (9) of Section 128(a) of the act. With respect to any failure to make disclosures required under this section, liability shall be imposed only upon the seller required to make disclosure, except as provided in subdivision (k).

(d) A seller or assignee has no liability under this section for any failure to comply with any requirement imposed under this section if within 60 days after discovering an error, whether through the seller's or assignee's own procedures or pursuant to procedures permissible under the act, and prior to the institution of an action under this section or the receipt of written notice of the error from the buyer, the seller or assignee notifies the buyer concerned of the

error and makes whatever adjustments as are necessary to assure that the buyer will not be required to pay an amount in excess of the charge actually disclosed, or the dollar equivalent of the annual percentage rate actually disclosed, whichever is lower.

(e) A seller or assignee may not be held liable in any action brought under this section if the seller or assignee shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. Examples of a bona fide error include, but are not limited to, clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a person's obligations under this section is not a bona fide error.

(f) When there are multiple buyers in a transaction, there shall be no more than one recovery of damages under paragraph (2) of subdivision (c).

(g) Any action under this section may be brought within one year from the date of the occurrence of the violation. This subdivision does not bar a person from asserting a violation of this section in an action to collect the debt which was brought more than one year from the date of the occurrence of the violation as a matter of defense by recoupment or set-off in such action, except as otherwise provided by law. No action may be brought under this section if an action relating to the transaction or a defense thereto has been brought or asserted under the act.

(h) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board of Governors of the Federal Reserve System or in conformity with any interpretation or approval by an official or employee of the Federal Reserve System duly authorized by the Board of Governors of the Federal Reserve System to issue such interpretations or approvals under such procedures as the Board of Governors of the Federal Reserve System may prescribe therefor, notwithstanding that after such act or omission has occurred, such rule, regulation, interpretation, or approval is amended, rescinded or determined by judicial or other authority to be invalid for any reason.

(i) The multiple failure to disclose to any person any information required under this section shall entitle the buyer to a single recovery.

(j) A buyer may not take any action to offset any amount for which a seller or assignee is potentially liable to such buyer under paragraph (2) of subdivision (c) against any amount owed by such buyer, unless the amount of the seller's or assignee's liability under this section has been determined by judgment of a court of competent jurisdiction in an action to which such buyer was a party. This subdivision does not bar a buyer then in default on the obligation from asserting a violation of this section as an original action, or as a defense or counterclaim to an action to collect amounts

owed by the buyer brought by a person liable under this title.

(k) Except as otherwise specifically provided in this section, any civil action for a violation of this section which may be brought against a seller may be maintained against any assignee of such seller only if the violation for which such action or proceeding is brought is apparent on the face of the disclosure statement, provided, however, that no civil action may be brought against such assignee for such violation if the assignment was involuntary. For purposes of this section, a violation apparent on the face of the disclosure statement includes, but is not limited to, (1) a disclosure which can be determined to be incomplete or inaccurate from the face of the disclosure statement or other documents assigned, or (2) a disclosure which does not use the terms required to be used in Regulation Z.

(*l*) In any action or proceeding by or against any assignee of the seller without knowledge to the contrary by the assignee when the assignee acquires the obligation, written acknowledgment of receipt by a buyer to whom disclosures are required to be given pursuant to this section shall be conclusive proof of the delivery thereof and, except as provided in subdivision (k), of compliance with this section. This subdivision does not affect the rights of the buyer in any action against the original seller.

(m) No final judgment shall be entered in an action brought pursuant to this section in favor of a buyer until the later of (1) the expiration of one year after the occurrence of the violation, or (2) the entry of judgment in an action for the violation brought under Section 130 of the act and filed within such one-year period. A buyer who has recovered any amount by way of judgment, settlement, or otherwise under Section 130 or 131 of the act shall not be entitled to any damages or other relief for the violation under this section.

SEC. 23. Section 18037 of the Health and Safety Code is amended to read:

18037. Notwithstanding any agreement to the contrary, the holder of a conditional sale contract for which Regulation Z disclosures are required pursuant to Section 18036.5 is subject to all equities and defenses of the buyer against the seller, except as provided by Section 18036.5. However, the assignee's liability may not exceed the amount of the debt owing to the assignee at the time of assignment. The assignee shall have recourse against the seller to the extent of any liability incurred by the assignee pursuant to this section whether the assignment was with or without recourse except to the extent of any written agreement between the seller and assignee which expressly references this section and modifies its effect.

SEC. 24. Section 18037.5 of the Health and Safety Code is repealed.

SEC. 25. Section 18037.5 is added to the Health and Safety Code, to read:

18037.5. (a) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract

which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home or mobilehome subject to registration under this part, including the right to repossess the property, notwithstanding any contrary provisions in the security agreement or conditional sale contract or in any other agreement entered into prior to default, the secured party may foreclose its security interest only by satisfying the requirements of this section.

(1) Unless the registered owner of the manufactured home or mobilehome has abandoned the property or has voluntarily surrendered possession of the property to the foreclosing creditor, the foreclosing creditor shall deposit or cause to be deposited in the United States mail an envelope addressed to each registered owner as shown on the current registration of the manufactured home or mobilehome, registered or certified with postage prepaid, containing a notice in substantially the following form and in at least 10-point type which notice shall be signed by the foreclosing creditor:

NOTICE OF DEFAULT

To: _____
(names of all registered owners)

You (if the registered owner is not the person who is in default, substitute name of defaulting person(s)) are in default under the terms of the _____
(identify security

_____
agreement by title or caption and date)

in that _____ .
(describe default)

This default gives the creditor named below the right to sell your manufactured home or mobilehome which is registered with the Department of Housing and Community Development under registration number(s)

_____, located at
(give registration number(s))

_____
(give location of property as shown on current registration)

unless the default is promptly cured.

You may cure the default by _____
(describe conditions

_____
precedent to reinstatement required to cure default)

or by entirely repaying the outstanding secured indebtedness on or before _____
(state final date available for

_____ .
cure, which date shall be no earlier than 45 days after mailing of the notice)

To cure the default you may also be required to reimburse the creditor for its reasonable attorney's fees and legal expenses and for any other sums to which the creditor may have become entitled under the terms of your credit agreement after the date of this notice. You may entirely repay the outstanding obligation by paying the creditor _____

(state dollar amount required to obtain release of security interest, and if the amount may increase due to passage of time, state that fact)

plus any amount necessary to reimburse the creditor for its reasonable attorney's fees and legal expenses and any other sums to which the creditor may have become entitled after the date of this notice under the terms of your agreement.

(2) Within five days following the mailing of the notice of default required by paragraph (1), the foreclosing creditor shall forward a copy thereof to the legal owner shown on the current registration card, if different than the foreclosing creditor, and to each junior lienholder shown on the current registration card, if different than the foreclosing creditor, and, effective July 1, 1985, to the department. The notice shall be forwarded to each party in the same manner as provided for mailing the original notice to the registered owner.

(3) In the event of default under the provisions of any security agreement relating to a loan or conditional sale contract which, according to its terms, gives the secured party the right to foreclose its security interest in a manufactured home or mobilehome, each registered owner and each junior lienholder having a security interest which is subordinate to the security interest of the foreclosing creditor shall have the right to cure the default by the methods and in the manner prescribed in the notice within 45 days after mailing of the notice to the registered owner required by paragraph (1).

(4) If the default is not cured within the time indicated on the notice required by paragraph (1), or if the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor, the creditor may proceed to sell the property at private or public sale pursuant to the provisions of Section 9504 of the Commercial Code except as provided in paragraph (5) and subdivision (c). The notice of sale required by Section 9504 of the Commercial Code shall not be mailed or delivered before expiration of the period for the right to cure the default, as stated in the notice required by paragraph (1), unless the property has been abandoned by the registered owner or voluntarily surrendered by the registered owner to the foreclosing creditor.

(5) Notwithstanding any contrary provisions of Section 9504 of the Commercial Code, the foreclosing creditor shall deposit or cause to be deposited in the United States mail, registered or certified with postage prepaid, an envelope containing the notice of sale addressed

to each party to whom the notice of default was mailed pursuant to paragraph (2). The notice of sale shall be given at least 10 days before the date fixed for a public sale or on or after which any private sale is to be made.

(6) For purposes of this subdivision, a manufactured home or mobilehome shall be deemed abandoned if the foreclosing creditor gives written notice of its belief of abandonment to the registered owner as provided in this paragraph and the registered owner fails to give the foreclosing creditor written notice, prior to the appropriate date specified in the foreclosing creditor's notice, stating that the registered owner has not abandoned and does not intend to abandon the manufactured home or mobilehome and stating an address at which the registered owner may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate. The foreclosing creditor may give a notice of belief of abandonment only where it reasonably believes that the registered owner has abandoned the manufactured home or mobilehome. The notice of belief of abandonment shall be personally delivered to the registered owner or sent by registered or certified mail, with postage prepaid, to the registered owner at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by the registered owner also to such other address, if any, known to the foreclosing creditor where the registered owner may reasonably be expected to receive the notice. The notice of belief of abandonment shall be in substantially the following form in at least 10-point type:

NOTICE OF BELIEF OF ABANDONMENT

To: _____
(names of all registered owners)

This notice is given pursuant to Section 18037.5 of the Health and Safety Code concerning your manufactured home or mobilehome located at

_____ .
(address of manufactured home or mobilehome as shown on current registration)

You _____
(if the registered owner is not the person who is in default, substitute name of defaulting person(s))

are in default under the terms of the

_____
(identify security agreement or conditional sale contract by title or caption and date)

in that_____. This default gives the
(describe default)

creditor named below the right to sell your manufactured home or mobilehome which is registered with the Department of Housing and Community Development under number(s) _____

(give registration number(s))
unless the default is promptly cured. Unless the creditor receives a written notice from you to the contrary by

_____,
(insert a date not less than 15 days after this notice is served personally or, if mailed, not less than 18 days after this notice is deposited in the mail)
your manufactured home or mobilehome will be deemed abandoned, which means that the creditor may sell your manufactured home or mobilehome sooner than would otherwise be permitted by law. The written notice you must send to the creditor shall be sent to

_____
(address of foreclosing creditor)
and shall state both of the following:

1. Your intent not to abandon the manufactured home or mobilehome.

2. An address at which you may be served by certified mail with a summons in connection with any legal action which the foreclosing creditor may appropriately initiate.

_____
(name of creditor)

_____
(signature of creditor)

(b) In the event of default under the provisions of any security agreement relating to a loan or a conditional sale contract in which the collateral is a commercial coach, the secured party may repossess the commercial coach in accordance with the provisions of the security agreement or conditional sale contract and applicable law, including the provisions of Division 9 (commencing with Section 9101) of the Commercial Code Upon repossession the secured creditor shall prepare and forward to the department a notice of repossession on the form prescribed by the department.

(c) The proceeds of the sale of a manufactured home, mobilehome, or commercial coach shall be applied, in the following order, to:

(1) The reasonable and necessary expenses incurred for preparing for and conducting the sale and, if the foreclosing creditor has obtained possession of the collateral prior to the disposition, the reasonable and necessary expenses for the retaking and holding of the collateral and to the extent provided for in the agreement and not prohibited by law, reasonable attorney's fees and legal expenses incurred by the foreclosing creditor in retaking the property from any person not a party to the credit contract.

(2) The satisfaction of the indebtedness secured by the security interest of the foreclosing creditor under which the disposition is

made.

(3) The satisfaction of indebtedness secured by any subordinate liens or encumbrances on the property in the order of their priority as provided in Section 18105, if with respect to a junior creditor written notification of demand therefor is received before distribution of the proceeds is completed, and to the satisfaction of any subordinate attachment lien or execution lien pursuant to subdivision (b) of Section 701.040 of the Code of Civil Procedure if notice of the levy of attachment or execution is received before distribution of the proceeds is completed. If requested by the foreclosing creditor, the holder of a subordinate lien or encumbrance shall furnish reasonable proof of his or her interest, and unless it does so, the foreclosing creditor need not comply with its demand.

(4) The satisfaction of indebtedness secured by all senior liens or encumbrances in the order of their priority as provided in Section 18105, if with respect to a senior creditor written demand therefor is received by the foreclosing creditor before distribution of the proceeds is completed. If requested by the foreclosing creditor, the holder of a senior lien or encumbrance shall furnish reasonable proof of his or her interest, and unless he or she does so, the foreclosing creditor need not comply with his or her demand.

(5) To the registered owner within 45 days after the sale is conducted if a surplus remains.

(d) Unless automatically provided to the registered owner within 45 days after the sale of a manufactured home or mobilehome if a request for an accounting is made within one year of the sale, the foreclosing creditor shall provide to the registered owner a written accounting containing the gross sales proceeds and its allocation pursuant to subdivision (c). In the event any surplus is paid to the registered owner pursuant to paragraph (5) of subdivision (c), the foreclosing creditor shall furnish such an accounting whether or not requested by the registered owner.

SEC. 26. Section 18039.5 is added to the Health and Safety Code, to read:

18039.5. (a) The provisions of this chapter, except Section 18037.5, shall not apply to any loan or credit sale secured by a manufactured home or mobilehome subject to registration under this part unless the loan or credit sale was made under circumstances which required disclosures under Regulation Z, as defined by Section 18036.5.

(b) In no respect shall the sale or financing of a manufactured home or mobilehome subject to this chapter and of any goods or services sold in conjunction with the sale of the manufactured home or mobilehome be subject to the Retail Installment Sales Act, Chapter 1 (commencing with Section 1801) of Title 2 of Part 4 of Division 3 of the Civil Code or the Automobile Sales Finance Act, Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code.

SEC. 27. Section 18080 of the Health and Safety Code is amended

to read:

18080. Ownership registration and title to a manufactured home, mobilehome, or commercial coach subject to registration may be held by two or more coowners as follows:

(a) A manufactured home, mobilehome, or commercial coach may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant the interest of the decedent shall pass to the survivor or survivors. The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the manufactured home, mobilehome, or commercial coach.

(b) A manufactured home, mobilehome, or commercial coach may be registered in the names of two or more persons as tenants in common. Each tenant in common may transfer, but may not encumber, his or her other interest in the title to the manufactured home, mobilehome, or commercial coach without the signature of the other tenant or tenants in common.

(c) A manufactured home, mobilehome, or commercial coach may be registered as community property in the names of a husband and wife. The signature of each spouse shall be required to transfer or encumber the title to the manufactured home, mobilehome, or commercial coach.

SEC. 28. Section 18080.1 is added to the Health and Safety Code, to read:

18080.1. The registration of a manufactured home, mobilehome, or commercial coach may be held in the name of a company, an estate, a trusteeship, a conservatorship, a guardianship, or an individual owner's name, as follows:

(a) In the case of an individual owner, the manufactured home, mobilehome, or commercial coach shall be registered in the true name of the individual owner only. Complimentary or professional titles may be added to the true name only if the individual is commonly addressed by that title.

(b) In the case of a trusteeship or guardianship, the manufactured home, mobilehome, or commercial coach shall be registered in the name of the person or persons designated as the trustees or conservators or guardians followed by the word "trustee," "guardian" or "conservator," whichever is appropriate. Transfer of ownership or encumbrance of a manufactured home, mobilehome, or commercial coach so registered shall require the signatures of all designated trustees, conservators, or guardians.

(c) In the case of a manufactured home, mobilehome, or commercial coach registered in the name of a company, the application for registration shall be countersigned by an officer or authorized agent of the company. Transfer of ownership or encumbrance of a manufactured home, mobilehome, or commercial coach so registered shall require the signature of an officer or authorized agent of the company.

(d) In the case of a manufactured home, mobilehome, or

commercial coach registered to an estate, the application for registration shall be signed by the appointed executor or administrator of the estate as evidenced by appropriate documentation. Transfer of ownership or encumbrance of a manufactured home, mobilehome, or commercial coach so registered shall require the signature of the appointed executor or administrator as evidenced by appropriate documentation.

SEC. 29. Section 18080.4 is added to the Health and Safety Code, to read:

18080.4. (a) Every registered owner, upon receipt of a registration card, shall maintain the card or a copy thereof with the manufactured home, mobilehome, or commercial coach for which it is issued.

(b) The provisions of this section do not apply when a registration card is necessarily removed from the manufactured home, mobilehome, or commercial coach for the purpose of application for renewal, amendment, or transfer of registration.

SEC. 30. Section 18080.5 of the Health and Safety Code is amended to read:

18080.5. (a) When selling a manufactured home, mobilehome, or commercial coach, dealers shall use numbered report-of-sale forms issued by the department. The forms shall be used in accordance with the following terms and conditions:

(1) A copy of the report of sale shall be delivered to the purchaser.

(2) All fees and penalties due for registration or transfer of registration of the manufactured home, mobilehome, or commercial coach shall be paid to the department within 10 calendar days from the date of sale. Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the purchaser for those penalties.

(3) Notice of the sale of a manufactured home, mobilehome, or commercial coach shall be reported pursuant to subdivision (c).

(4) The original report-of-sale form together with all required documents to either report the sale or make application to register or transfer a manufactured home, mobilehome, or commercial coach shall be forwarded to the department. Any application shall be submitted within 10 calendar days from the date of sale.

(b) A manufactured home, mobilehome, or commercial coach displaying a copy of the report of sale may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

(c) In addition to the other requirements of this section every dealer upon transferring by sale, lease, or otherwise any manufactured home, mobilehome, or commercial coach shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the manufactured home, mobilehome, or commercial coach is to be installed. The written notice shall be upon forms provided by the department containing any information that the department

may require, after consultation with the assessors. Filing of a copy of the notice with the assessor in accordance with this section shall be in lieu of filing a change of ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(d) For the purposes of this section, a "sale" shall be deemed completed and consummated when all the amounts other than escrow fees and amounts for uninstalled or undelivered accessories are disbursed from the escrow account in accordance with Section 18035.

SEC. 31. Section 18080.7 is added to the Health and Safety Code, to read:

18080.7. (a) Each person acquiring or retaining a security interest in a manufactured home, mobilehome, or commercial coach subject to registration under this part, unless the collateral is inventory, shall forward or cause to be forwarded to the department the application for original registration contemplated by Section 18085 with respect to a security interest acquired or retained at or before original registration, or the certificate of title or current registration card with appropriate insertions and signatures as respectively contemplated by Section 18100.5 with respect to a security interest acquired or retained at a time subsequent to original registration, together with the filing fee prescribed by department regulations.

(b) A security interest in a manufactured home, mobilehome, or commercial coach subject to registration under this part, unless the collateral is inventory, is perfected when it has attached as contemplated by subdivision (a) and by subdivision (2) of Section 9203 of the Commercial Code and when the department has received the items required by subdivision (a), whichever occurs later, except as otherwise provided by Section 9305 of the Commercial Code. The department may promulgate regulations authorizing its acceptance of a statement of lien by means of electronic facsimile. If the department promulgates such regulations, a security interest may also be perfected when it has attached and when the department has received the electronic facsimile, whichever occurs later, subject to the receipt by the department of the items required by subdivision (a), other than the fee, within 10 days of the date of its receipt of the electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion pursuant to such regulations.

(c) Except as otherwise provided in subdivision (b) of Section 18100.5, upon receipt of the items required by subdivision (a), the department shall establish or amend the permanent title record of the manufactured home, mobilehome, or commercial coach to reflect the interest of the secured party as of that date or, if within the preceding 10-day period the department has received an electronic facsimile of the statement of lien, as of the date of receipt of such electronic facsimile, provided that the fee required by subdivision (a) is paid in a timely fashion and the department

actually receives the statement of lien within 10 days of its receipt of the electronic facsimile.

(d) Upon establishing or amending the permanent title record, the department shall issue to the registered owner a current registration card indicating the interest of the secured party and shall forward a copy of that registration card to all persons holding a record security interest in the manufactured home, mobilehome, or commercial coach.

(e) Except as otherwise provided in subdivision (b) of Section 18100.5, the department shall not refuse to establish or amend the permanent title record to indicate a security interest which is authorized by law to be recorded and which would otherwise satisfy statutory requirements for departmental documentation and recordation on the basis of lack of knowledge as to the attachment of the security interest prior to its receipt of the statement of lien or an electronic facsimile thereof.

(f) The department shall designate the holder of a perfected security interest as either the legal owner or a junior lienholder as provided in this article, Article 3 (commencing with Section 18085), or Article 4 (commencing with Section 18098), as applicable.

(g) The failure of a secured party to perfect a security interest for which there has been attachment shall not impair or affect in any way its enforceability against the registered owner or debtor with respect to the manufactured home, mobilehome, or commercial coach.

(h) Except as otherwise provided in this part, a security interest in a manufactured home, mobilehome, or commercial coach subject to registration with the department is governed by the provisions of Division 9 (commencing with Section 9101) of the Commercial Code.

SEC. 32. Section 18082 of the Health and Safety Code is repealed.

SEC. 33. Section 18084.7 is added to the Health and Safety Code, to read:

18084.7. Manufactured homes, mobilehomes, and commercial coaches shall not be subject to the provisions of Section 18115, 18115.5 or 18116 or to the provisions of Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code prior to the original registration of the manufactured home, mobilehome, or commercial coach in the name of a consumer.

SEC. 34. Section 18085 of the Health and Safety Code is amended to read:

18085. (a) Application for the original registration of a manufactured home, mobilehome, or commercial coach required to be registered under this part shall be made to the department upon the appropriate form approved by the department, and shall be accompanied by the filing fee prescribed by department regulations and the original manufacturer's certificate of origin in the form prescribed by Section 18093. If the original certificate of origin is not in existence, a duplicate thereof shall be obtained from the

manufacturer and submitted with the application for original registration. Any duplicate copy shall be conspicuously marked as a duplicate copy.

(b) The application shall include, but not be limited to, all of the following:

(1) The true name and mailing address of the registered owner, the legal owner, if any, and junior lienholders, if any.

(2) The name of the county in which the registered owner resides.

(3) The situs address of the manufactured home, mobilehome, or commercial coach, to include the county.

(4) A description of the manufactured home, mobilehome, or commercial coach, including all of the following:

(i) The manufacturer's name and identification number.

(ii) The date of manufacture.

(iii) The serial number or numbers.

(iv) The federal label number or numbers affixed pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C., Sec. 5401, et seq.) or department insignia number or numbers affixed pursuant to Section 18026.

(v) The date first sold or leased to a purchaser or lessee for purposes other than resale.

(vi) Any other information as may be reasonably required by the department to enable it to determine whether the manufactured home, mobilehome, or commercial coach is lawfully entitled to registration.

SEC. 35. Section 18090.5 of the Health and Safety Code is amended to read:

18090.5. (a) Except as otherwise provided in Section 18089, the department, upon the original registration of a manufactured home, mobilehome, or commercial coach, shall establish a permanent title record for the manufactured home, mobilehome, or commercial coach and shall issue a certificate of title to the legal owner and a registration card to the registered owner.

(b) The department shall designate on the permanent title record as the legal owner the holder, if any, of the perfected security interest in the manufactured home, mobilehome, or commercial coach. If there is more than one perfected security interest, the holder of the security interest designated in the application for the original registration as the legal owner shall be the legal owner.

(c) The department shall designate on the permanent title record as junior lienholders those holders, if any, of perfected security interests in the manufactured home, mobilehome, or commercial coach other than the legal owner. If there is more than one junior lienholder, they shall be listed on the permanent title record in the same order as is designated in the application for the original registration. A copy of the registration card shall be sent to each junior lienholder and the creditor identified on the manufacturer's certificate of origin.

(d) If an application for registration specifies more than one

secured creditor and the department is unable to determine from the application which creditor is to be the legal owner, or the seniority order in which junior lienholders are to be designated, the department shall so notify the applicant for registration and all secured creditors and shall withhold registration or transfer of registration until the department receives such designation.

(e) The certificate of title and the registration card issued pursuant to this section shall show the name and address of all registered owners, the legal owner, if any, and all junior lienholders, if any, with the junior lienholders listed in the same order as designated on the permanent title record.

SEC. 36. Section 18092.5 of the Health and Safety Code is amended to read:

18092.5. The department may refuse registration or the renewal or transfer of registration of a manufactured home, mobilehome, or commercial coach in the following instances:

(a) If the department is not satisfied that the applicant is entitled thereto under this part.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

SEC. 37. Section 18093 of the Health and Safety Code is amended to read:

18093. (a) At the time of release of a new manufactured home, mobilehome, or commercial coach to any person, the manufacturer shall prepare a certificate of origin, in quadruplicate, on numbered forms prepared by the department which shall contain all of the following:

(1) The name and address of the manufacturer or fabricator.

(2) The manufacturer's identification number.

(3) The trade name of the manufactured home, mobilehome, or commercial coach.

(4) The model name or number of the manufactured home, mobilehome, or commercial coach.

(5) The shipping weight of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(6) The length and width of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(7) The serial number of the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches.

(8) The date of manufacture.

(9) The United States Department of Housing and Urban Development label number or department insignia number affixed to the unit or separate sections of the unit in the case of multisection manufactured homes, mobilehomes, or commercial coaches, as applicable.

(10) The date that the ownership was transferred from the manufacturer or fabricator and to whom the ownership is transferred.

(11) A certification of facts signed by a responsible agent of the manufacturer or fabricator.

(12) The name and business address of any person known to the manufacturer or fabricator who, as to the purchaser, has a purchase money security interest in the manufactured home, mobilehome, or commercial coach as contemplated by Section 9107 of the Commerical Code.

(13) Any other information as the department may reasonably require.

(b) The manufacturer or fabricator shall forward the original and duplicate copies of the certificate of origin by first-class mail as follows:

(1) The original shall be forwarded to the purchase money creditor unless there is none in which event the original shall be forwarded to the purchaser.

(2) The first copy shall be forwarded to the department at the address printed on the form.

(3) The second copy shall accompany the manufactured home, mobilehome, or commercial coach to its destination.

(4) The third copy shall be retained by the manufacturer or fabricator for its permanent records.

(c) The department may establish regulations for the distribution, maintenance, accessability, and surrender of certificates of origin required by this section.

SEC. 38. Section 18093.5 of the Health and Safety Code is repealed.

SEC. 39. Section 18099.5 of the Health and Safety Code is amended to read:

18099.5. (a) Except as otherwise provided in subdivision (b), no person shall move, permit to be moved, or cause to be moved, any manufactured home or mobilehome from the situs indicated on the registration card, without first obtaining the written consent of the legal owner and of each junior lienholder, if any. The written consent shall be obtained on forms approved by the department. In the event that there is no legal owner and no junior lienholder, the registered owner shall complete the written consent form. The original copy of each written consent form shall accompany the manufactured home or mobilehome to its new situs in lieu of a registration card.

(b) If the person proposing to move a manufactured home or mobilehome required to be registered under this part shall have requested the consent required by subdivision (a) delivered to a secured party or mailed to such person by certified mail, return receipt requested, and the secured party has within 30 days neither given nor withheld its consent, the person proposing to move the manufactured home or mobilehome shall notify the department on a form approved by the department of such event and a copy of such

form shall accompany the manufactured home or mobilehome to its new situs.

SEC. 40. Section 18100.5 of the Health and Safety Code is amended to read:

18100.5. (a) If the title or interest of a registered owner, legal owner or junior lienholder in a manufactured home, mobilehome, or commercial coach for which an original registration under this part has been obtained is transferred to another person, or if all outstanding secured obligations previously held by a legal owner registered as such upon original or subsequent registration or by a junior lienholder are satisfied and such person no longer has any obligation to extend credit, incur obligations or otherwise give value to be secured by the manufactured home, mobilehome, or commercial coach, or if a security interest is taken in a manufactured home, mobilehome, or commercial coach after the permanent title record has been established, the department shall be notified within 20 days and shall act as follows:

(1) If the title or interest of a registered owner or legal owner is being transferred, the transferor and the transferee of the title or interest shall execute in the manner prescribed by the department the certificate of title for the manufactured home, mobilehome, or commercial coach. If the transfer is made by a registered owner and the transferee is to assume the underlying indebtedness secured by the manufactured home, mobilehome, or commercial coach and owed to a legal owner, the legal owner shall state on the certificate of title that legal title and interest is to be retained. The certificate of title so executed shall be fowarded to the department with appropriate fees. The department shall appropriately amend the permanent title record of the manufactured home, mobilehome, or commercial coach, forward a new certificate of title reflecting the change to the permanent title record to the legal owner by first-class mail and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record. If there is no legal owner, the new certificate of title and amended registration card shall be forwarded to the registered owner.

(2) If the interest of a junior lienholder is being transferred, the transferor and the transferee shall execute in a manner prescribed by the department the registration card and the card so executed shall be forwarded to the department with appropriate fees. The department shall appropriately amend the permanent title record and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(3) If a creditor acquires a security interest in a manufactured home, mobilehome, or commercial coach after the permanent title record has been established, the department shall amend the permanent title record to reflect the interest as that of a legal owner or as that of a junior lienholder, as appropriate. If the permanent title

record already reflects the interest of one or more junior lienholders, the creditor then perfecting its interest pursuant to this section shall be designated as the most junior lienholder.

(4) If a legal owner no longer holds an outstanding obligation or a commitment to make advances, incur obligations or otherwise give value to be secured by the manufactured home, mobilehome, or commercial coach, the legal owner shall indicate its release of lien by appropriately signing the certificate of title for the manufactured home, mobilehome, or commercial coach and forward the certificate of title to the department with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, or commercial coach, deliver a new certificate of title reflecting the change to the permanent title record to the new legal owner, if any, by first-class mail, and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the registration card. For purposes of this paragraph, the following person shall be designated as the new legal owner:

(i) The junior lienholder, if any.

(ii) If there is more than one junior lienholder, the junior lienholder whose statement of lien was designated as the most senior junior lienholder on the permanent title record shall be the legal owner.

(5) If a junior lienholder no longer holds an outstanding obligation or a commitment to make advances, incur obligations or otherwise give value to be secured by the manufactured home, mobilehome, or commercial coach, the junior lienholder shall forward to the department, on the appropriate form approved by the department, a statement of lien release with appropriate fees. The department shall appropriately amend the permanent title record for the manufactured home, mobilehome, or commercial coach and forward an amended registration card reflecting the change to the permanent title record to the registered owner with copies to all secured parties shown on the permanent title record.

(b) (1) Notwithstanding the provisions of subdivision (d) of this section and subdivisions (c) and (e) of Section 18080.7, for the 120-day period beginning upon the receipt by the department of the notice of escrow and appropriate fee provided by paragraph (1) of subdivision (d) of Section 18035, or until the subject escrow is cancelled or until the subject escrow closes and the resulting transfers of ownership interests and transfers or creation of legal owner and junior lienholder interests are acknowledged by the department as amendments to the permanent title record of the subject manufactured home or mobilehome, whichever is earlier, the department, except at its sole discretion, shall impose a moratorium (A) on any other amendments to the permanent title record of the subject manufactured home or mobilehome for the purpose of transferring any ownership interest or transferring or

creating any security interest in the manufactured home or mobilehome and (B) on issuing any duplicate, substitute, or new certificate of title, registration card, or copy of a registration card regarding the subject manufactured home or mobilehome.

(2) The department shall, upon receipt of the notice of escrow and appropriate fee, forward to the escrow agent an acknowledgement of receipt and a true and correct copy of the permanent title record as of the commencement of the period of moratorium.

(c) If a secured party fails to comply with the provisions of subdivision (a) relating to releases of lien and the secured party thereafter receives a written demand from the registered owner that the secured party release its lien, the secured party shall be liable to the registered owner for all actual damages suffered by the registered owner by reason of such failure to release the lien unless the secured party, within 20 days of receipt of the demand, complies with the requirements of subdivision (a).

(d) Whenever the title or interest of the registered owner or legal owner in or to a manufactured home, mobilehome, or commercial coach registered under this part passes to another in a manner other than by voluntary transfer, the new registered owner or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of title if available and current registration card, if available, issued for the manufactured home, mobilehome, or commercial coach and any instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect the transfer of title or interest in such a case. The department, when satisfied of the genuineness and regularity of the transfer shall give notice by first-class mail to the registered owner, the legal owner, if any, and all junior lienholders, if any, of the manufactured home, mobilehome, or commercial coach as shown on the permanent title record, and, 15 days after the mailing of the notice, if still satisfied of the genuineness and regularity of the transfer, shall amend the permanent title record of the manufactured home, mobilehome, or commercial coach, issue a new current registration card and certificate of title and forward copies of the current registration card to all junior lienholders.

(e) The department shall not transfer registration until the applicant complies with the requirements of Section 18092.7.

SEC. 41. Section 18103.5 of the Health and Safety Code is repealed.

SEC. 42. Section 18104 of the Health and Safety Code is repealed.

SEC. 43. Section 18104.5 of the Health and Safety Code is repealed.

SEC. 44. Section 18105 of the Health and Safety Code is amended to read:

18105. (a) Except as otherwise provided in subdivision (e) or (g), the security interest of the legal owner has priority over

conflicting security interests of junior lienholders and holders of security interests perfected pursuant to Section 9305 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, or commercial coach subject to registration under this part and its proceeds.

(b) Except as otherwise provided in subdivision (e) or (g), the security interest of a junior lienholder has priority over conflicting security interests of holders of security interests perfected pursuant to Section 9305 of the Commercial Code and of unperfected security interests in a manufactured home, mobilehome, or commercial coach subject to registration under this part and its proceeds. Conflicting security interests of junior lienholders rank in the order designated on the permanent title record maintained by the department.

(c) Except as otherwise provided in subdivision (e) or (g), a security interest perfected pursuant to Section 9305 of the Commercial Code has priority over conflicting unperfected security interests in a manufactured home, mobilehome, or commercial coach subject to registration under this part and its proceeds.

(d) Except as otherwise provided in subdivision (e) or (g), conflicting unperfected security interests in a manufactured home, mobilehome, or commercial coach subject to registration under this part and its proceeds rank according to priority in time of attachment.

(e) (1) Except as otherwise provided in subdivision (g), the security interest of any secured party shall not have priority over any security interest of a party having a subordinate security interest by virtue of the preceding provisions of this section to the extent that the otherwise senior secured obligation was incurred subsequent to receipt by that creditor of actual or constructive notice of the existence of the otherwise junior security interest unless the obligation arose pursuant to the terms of a security agreement for the purpose of preserving the collateral or protecting the interest of the senior secured party therein or unless the otherwise senior secured obligation was incurred under a binding agreement that the credit would be extended by that creditor.

(2) For purposes of this subdivision receipt of a copy of the registration certificate which reflects the existence of a security interest shall constitute constructive notice of the existence of such security interest. In interpreting the provisions of this subdivision but for no other purposes, it is the intent of the Legislature that the priorities among conflicting security interests be determined in accordance with the rules of law applicable to priority as to interests in real property.

(f) Except as otherwise provided in subdivision (g), the security interest of the legal owner or a junior lienholder has priority over a conflicting security interest of a holder of a perfected security interest in a manufactured home, mobilehome, or commercial coach subject to registration under this part which is inventory, including

the proceeds of the inventory. The rules of priority regarding conflicting security interests of holders of a perfected security interest in a manufactured home, mobilehome, or commercial coach subject to registration under this part which is inventory and of holders of security interests perfected pursuant to Section 9305 of the Commercial Code or unperfected security interests in a manufactured home, mobilehome, or commercial coach subject to registration under this part shall be governed by Section 9312 of the Commercial Code.

(g) If the holders of two or more of the several security interests shall otherwise agree among themselves, the relative priorities among the holders of security interests who have so agreed shall be determined according to this agreement.

SEC. 45. Section 18106 is added to the Health and Safety Code, to read:

18106. (a) As used in this section, "lien creditor" means a creditor who has acquired a lien on a manufactured home, mobilehome, or commercial coach subject to registration under this part by attachment, levy or the like and includes an assignee for benefit of creditors from the time of assignment, and a trustee in bankruptcy from the date of the filing of the petition or a receiver in equity from the time of appointment, as contemplated by subdivision (3) of Section 9301 of the Commercial Code.

(b) Except as provided in subdivision (c), an unperfected security interest in a manufactured home, mobilehome, or commercial coach subject to registration under this part is subordinate to the rights of a person who becomes a lien creditor before the security interest is perfected.

(c) If a security interest in a manufactured home, mobilehome, or commercial coach becomes perfected as contemplated by subdivision (a) of Section 18080.7, the security interest is senior to the rights of a lien creditor which arise between the time the security interest attaches and the time of perfection.

(d) A person who becomes a lien creditor while a security interest in a manufactured home, mobilehome, or commercial coach is perfected by any of the means contemplated by subdivision (b) of Section 18080.7 takes subject to the perfected security interest only to the extent that it secures advances either made before that person becomes a lien creditor or made thereafter which would otherwise be senior to a competing security interest as provided in subdivision (e) of Section 18105.

SEC. 46. Section 18119 of the Health and Safety Code is amended to read:

18119. (a) If the license fee has not been paid on or before the 60th day following the date on which the fee became delinquent, the department shall mail a notice to the registered owner, legal owner and each junior lienholder shown on the permanent title record as of that date, containing the following information:

(1) That the license fee is delinquent.

(2) That the manufactured home or mobilehome will become subject to local property tax if the fees and penalties are not paid on or before the 120th day after the date of delinquency.

(3) That if the manufactured home or mobilehome becomes subject to local property tax, the owner, legal owner or any junior lienholder may file a petition for reinstatement to the vehicle license fee in accordance with Article 4 (commencing with Section 10910) of Chapter 3 of Part 5 of Division 2 of the Revenue and Taxation Code, within 210 days of the date of delinquency.

(4) That on or after the 120th day following the date of delinquency, the department will notify the county assessor of the county in which the manufactured home or mobilehome is sited that the manufactured home or mobilehome is subject to local property taxation.

(b) On or before the last day of each calendar month, the department shall furnish a listing of all manufactured homes and mobilehomes for which the license fee has become delinquent for a period of 120 days or more, as provided for in Section 10759.5 of the Revenue and Taxation Code, since the last listing was furnished, and a listing of all voluntary transfers to local property taxation as provided for in subdivision (c), new registrations, and transfers of title to manufactured homes and mobilehomes since the last listing, to the county assessor of the county in which the manufactured home or mobilehome is sited.

(c) The department shall transfer a manufactured home or mobilehome which is subject to vehicle license fee to local property taxation upon a request for the transfer, as prescribed by the department, executed by the registered owner, legal owner, and each junior lienholder. Transfer pursuant to this subdivision shall be final. Persons obtaining such a transfer thereby waive all entitlement to petition for reinstatement to the vehicle license fee, and are not entitled to the refund of any vehicle registration fees or vehicle license fees paid which apply to the period between the date of voluntary transfer and the expiration of the registration period for which the fees were paid.

SEC. 47. Section 18122 of the Health and Safety Code is amended to read:

18122. Except as it may affect a security interest properly perfected other than pursuant to Section 9305 of the Commercial Code, the department may suspend, revoke, or cancel any certificate of title valid on its face for any violation of the provisions of this chapter relating to certificates of title. The department shall notify all persons or entities with perfected security interests at the time that such an action is taken.

SEC. 48. Section 18123.5 of the Health and Safety Code is amended to read:

18123.5. (a) A dealer who violates paragraph (1), (2), or (3) of subdivision (a) of Section 18080.5 shall pay to the department an administrative service fee of five dollars ($5) for each violation.

(b) A dealer who violates paragraph (4) of subdivision (a) of Section 18080.5, when selling a manufactured home, mobilehome, or commercial coach, shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 10 calendar days but within 20 calendar days from the date of sale; ten dollars ($10).

(2) If the application is submitted after 20 calendar days but within 30 calendar days from the date of sale; twenty dollars ($20).

(3) If the application is submitted after 30 calendar days but within 60 calendar days from the date of sale; forty dollars ($40).

(4) If the application is submitted after 60 calendar days from the date of sale; two hundred dollars ($200).

(c) Each violation of subdivision (a) of Section 18080.5 shall be, in addition to the obligation to pay the administrative service fee, a separate cause for discipline pursuant to Section 18058.

(d) Nonpayment of an administrative service fee within 10 days after written demand from the department shall be a separate cause for discipline pursuant to Section 18058.

SEC. 49. Section 10910 of the Revenue and Taxation Code is amended to read:

10910. Any assessee, registered owner, legal owner, or junior lienholder of a manufactured home or mobilehome which has become subject to local property taxation because the license fee has been delinquent for 120 days or more may file a petition for reinstatement to the vehicle license fee in accordance with this article. That petition shall be filed with the Department of Housing and Community Development within 210 days of the of date of delinquency. The petition shall state the grounds upon which the petition is filed and shall be in a form and contain that information which the Department of Housing and Community Development may prescribe. If the petition is not timely filed, the placement of the manufactured home or mobilehome on the local property tax roll shall become final.

SEC. 50. Section 387 of the Vehicle Code is amended to read:

387. "Manufactured home" is a manufactured home, as defined in Section 18007 of the Health and Safety Code, a mobilehome, as defined in Section 18008 of the Health and Safety Code, a commercial coach, as defined in Section 18001.8 of the Health and Safety Code, and factory-built housing, as defined in Section 19971 of the Health and Safety Code. Manufactured home does not include a recreational vehicle, as defined in Section 18215.5 of the Health and Safety Code.

SEC. 51. Section 35790 of the Vehicle Code 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 or forms as required by Section 18099.5 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. 52. Section 6.5 of this bill incorporates amendments to Section 3051 of the Civil Code proposed by both this bill and AB 1539. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 3051 of the Civil Code, and (3) this bill is enacted after AB 1539, in which case Section 6 of this bill shall not become operative.

SEC. 53. Section 18.5 of this bill incorporates amendments to Section 18035.1 of the Health and Safety Code proposed by both this bill and SB 1235. It shall only become operative if (1) both bills are enacted before January 1, 1984, (2) each bill amends Section 18035.1 of the Health and Safety Code, and (3) this bill is enacted after SB 1235, in which case Section 18035.1 of the Health and Safety Code, as amended by SB 1235, shall remain operative only until July 1, 1984, at which time Section 18 of this bill shall not become operative.

SEC. 54. Section 19.5 of this act shall become operative only if SB 1235 of the 1983–84 Regular Session of the Legislature is chaptered on or before January 1, 1984, and adds Section 18035.2 to the Health and Safety Code.

SEC. 55. There is hereby appropriated one hundred seven thousand dollars ($107,000) from the Mobilehome-Manufactured Home Revolving Fund created by Section 18016.5 of the Health and Safety Code to the Department of Housing and Community Development to carry out the duties imposed upon it by this act.

SEC. 56. 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. 57. Sections 1 to 4, inclusive, and 11 to 51, inclusive, of this act shall become operative July 1, 1984. Sections 5 to 10, inclusive, and Sections 52 to 56, inclusive, of this act shall become operative January 1, 1984.

CHAPTER 1125

An act to add Article 3 (commencing with Section 90085) to Chapter 8 of Part 55 of the Education Code, and to amend Section 50740 of the Health and Safety Code, relating to the California State University, and making an appropriation therefor.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Article 3 (commencing with Section 90085) is added to Chapter 8 of Part 55 of the Education Code, to read:

Article 3. Affordable Student Housing

90085. It is the intent of the Legislature in enacting this article to provide for affordable student housing on the campuses of the California State University.

Further, it is the intent of the Legislature that priority for construction of affordable student housing shall be given to campuses where there is no on campus student housing and a large proportion of the student population have low-income disadvantaged backgrounds.

90086. The following terms wherever used or referred to in this article shall have the following meanings:

(a) "Trustees" means the Trustees of the California State University.

(b) "Campus" means any of the institutions included within the California State University, as specified in Section 89001.

(c) "Chancellor" means the Chancellor of the California State University.

(d) "Project" means any one or more low-cost dormitories or other housing facilities, both onsite and offsite, to be constructed, furnished, equipped, and operated by the trustees pursuant to this article for use by students of any one or more of the campuses.

(e) "User fees" means any rents, deposits, or fees paid to the local administration of any campus for the use of any project.

90087. (a) There is in the State Treasury the Affordable Student Housing Revolving Fund. Notwithstanding the provisions of Section 13340 of the Government Code, the money in the fund is hereby continuously appropriated for the purposes of this article.

(b) Moneys in the fund shall be available for use by the trustees, as they deem necessary, in combination with the proceeds of bonds issued pursuant to the State College Revenue Bond Act of 1947 (Article 2 (commencing with Section 90010)) to ensure that the housing projects constructed will be affordable to students. Moneys in the fund shall be used in connection with newly constructed

student housing projects in accordance with the priorities adopted by the trustees pursuant to Section 90089.

(c) Any funds received from the Affordable Student Housing Revolving Fund for use as authorized in this article shall be repaid from user fees over a 40-year period, with interest at a rate not to exceed two-thirds of the most current investment rate of the Pooled Money Investment Account as of the date of disbursement of funds from the Affordable Student Housing Revolving Fund.

90088. (a) The chancellor and each local administration of a campus shall administer the provisions of this article in accordance with the rules and regulations adopted by the trustees pursuant to subdivision (b).

(b) The trustees shall adopt rules and regulations to establish general guidelines for the administration of this article.

(c) The trustees shall adopt regulations defining the term "affordable student housing" as used in this article.

90089. The trustees shall develop a five-year priority list of the housing needs at each of the campuses, taking into account the impact of the students attending that campus on the local pool of affordable housing available for senior citizens and other limited-income people with critical housing needs.

SEC. 2. Section 50740 of the Health and Safety Code is amended to read:

50740. (a) The Rental Housing Construction Incentive Fund established in the State Treasury is hereby renamed the Rental Housing Construction Fund. Notwithstanding Section 13340 of the Government Code, money in the fund is hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b), (c), and (d), shall be utilized for purposes of this chapter, including Section 50745.1, and for the purposes of Section 50775.5. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(b) Money from the fund utilized by the agency for development costs which was repaid to the agency or disencumbered between June 30, 1982, and June 30, 1983, and any additional funds or interest which is available for encumbrance on June 30, 1983, shall be deposited in a separate account in the fund and utilized as follows:

(1) Eight million one hundred thousand dollars ($8,100,000) shall be utilized by the agency for activities authorized by Article 4.5 (commencing with Section 51180) of Chapter 5 of Part 3.

(2) Five hundred thousand dollars ($500,000) shall be transferred by the agency to the department for deposit in the Rural Community Facility Grant Fund, established pursuant to Section 6125, and utilized to carry out the program established by Chapter 11

(commencing with Section 6120) of Part 3 of Division 5, if Assembly Bill 1604 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Three million dollars ($3,000,000) shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of Section 50661, if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(4) One million seven hundred thousand dollars ($1,700,000) shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized to carry out the program established by Chapter 11 (commencing with Section 50800), if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(5) Two million five hundred thousand dollars ($2,500,000) shall be transferred by the agency to the Trustees of the California State University for deposit in the Affordable Student Housing Revolving Fund, established pursuant to Section 90087 of the Education Code, and utilized to carry out the program established by Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code, if Assembly Bill 133 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(6) Three hundred thousand dollars ($300,000) shall be transferred by the agency to the department and utilized to carry out the program established by Chapter 3.6 (commencing with Section 50533), if Senate Bill 19 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(7) Four million two hundred thousand dollars ($4,200,000) shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes authorized by that section, if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(c) An amount not to exceed four million dollars ($4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in the separate account established pursuant to subdivision (b) and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for the

purposes specified in paragraph (3) of subdivision (b) if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized for the purposes specified in paragraph (4) of subdivision (b) if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984

(3) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes specified in paragraph (7) of subdivision (b) if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(d) If any of the bills specified in paragraphs (2) to (7), inclusive, of subdivision (b), or subdivision (c), are not chaptered or do not become effective and operative on or before January 1, 1984, or the expenditure of funds for any of the purposes authorized by subdivisions (b) or (c) is otherwise reduced, the amount of funds allocated pursuant to those subdivisions shall be reallocated by the agency, between January 1, 1984, and January 14, 1984, among the remaining programs specified in subdivision (b) or (c), for which the funds were not reduced, on a pro rata basis.

CHAPTER 1126

An act to amend Section 14002 of, and to add Section 14255 to, the Elections Code, relating to government, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 14002 of the Elections Code is amended to read:

14002. (a) For each statewide election, the clerk shall provide one official ballot for each voter in the precinct, and for absentee and emergency purposes shall provide such additional number of ballots as may be necessary.

The number of party ballots to be furnished to any precinct for a primary election shall be computed from the number of voters registered in that precinct as intending to affiliate with a party, and the number of nonpartisan ballots to be furnished to any precinct shall be computed from the number of voters registered in that

precinct without statement of intention to affiliate with any of the parties participating in the primary election.

(b) For all other elections, the clerk shall provide a sufficient number of official ballots in each precinct to reasonably meet the needs of the voters in that precinct on election day using the precinct's voter turnout history as a criterion, but in no case shall this number be less than 75 percent of the number of registered voters in the precinct, and for absentee and emergency purposes shall provide such additional number of ballots as may be necessary.

SEC. 2. Section 14255 is added to the Elections Code, to read:

14255. If a precinct board is unable to furnish a qualified voter a ballot, because there is an insufficient number of ballots at the precinct, the clerk shall deliver to the precinct additional ballots to ensure that all eligible voters can cast their ballots by 10 p.m. on election day.

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 provisions of this act may apply in time for certain local elections conducted in 1983, resulting in a substantial savings to the counties in terms of printing and distribution of ballots, it is essential that this act take effect immediately.

CHAPTER 1127

An act to add Sections 17268 and 24415 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. The Legislature finds and declares that the formation of cooperative interindemnity arrangements has contributed significantly to the reduction of health care costs while assuring the highest quality of medical treatment through effective peer review. This legislation is designed to encourage further utilization of the cooperative form of indemnity to further those goals.

The Legislature urges the Congress to promptly adopt similar amendments at the federal level so that the benefits heretofore reaped will continue to be enhanced.

SEC. 2. Section 17268 is added to the Revenue and Taxation Code, to read:

17268. (a) To the extent specified in subdivision (b), there shall

be allowed as a deduction to a taxpayer those payments of the taxpayer which are made pursuant to an interindemnity arrangement specified in Section 1280.7 of the Insurance Code and which are paid to a trust of members of a cooperative corporation organized and operated under Part 2 (commencing with Section 12200) of Division 3 of Title 1 of the Corporations Code and the members of which consist solely of physicians and surgeons licensed in this state.

(b) The deduction authorized by subdivision (a) shall be taken with respect to the taxable year in which the payment is made and shall be taken only to the extent that the payment does not exceed the amount which would otherwise be payable to an independent insurance company for similar coverage for medical malpractice insurance in that taxable year. Any portion of the payment in excess of that amount shall be treated as a payment under the interindemnity arrangement for five succeeding taxable years and may be carried forward as a deduction to those five succeeding taxable years until used. The deduction shall be applied first to the earliest years possible.

(c) In the event any payment is refunded by the trust to the taxpayer for any reason, the payment shall be included in the taxpayer's income for the taxable year in which it is received to the extent that the payment or any portion thereof was taken as a deduction in any earlier taxable year.

(d) Any refund of a payment which is made by a trust to a taxpayer shall be reported by the trust to the Franchise Tax Board in the year in which the refund is made. The trust shall furnish the taxpayer with a copy of that report. In the case of any payment to be made to a taxpayer who is not a resident of the State of California in the year in which the refund is made, the Franchise Tax Board may, by regulation, require the trust to withhold an amount from the refund, determined by the Franchise Tax Board to reasonably represent the amount of tax due when that refund is included with other income of the taxpayer, and to transmit the amount withheld to the Franchise Tax Board at a time as it may designate.

(e) For purposes of this section:

(1) "Payment" means a contribution to an interindemnity arrangement described in Section 1280.7 of the Insurance Code.

(2) "Taxpayer" means a physician or surgeon licensed in this state who is a participating member in an interindemnity arrangement described in Section 1280.7 of the Insurance Code.

(3) "Trust" means a trust described in subdivision (a).

(f) Upon request, the trust shall submit to the Franchise Tax Board the names and membership dates of all participating doctors.

(g) The Franchise Tax Board shall prescribe those regulations as may be necessary to carry out the purposes of this section.

SEC. 3. Section 24415 is added to the Revenue and Taxation Code, to read:

24415. Any payments described in Section 17268.

SEC. 4. The provisions of this act shall be operative only in those taxable and income years in which similar provisions are operative in federal law.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of this act shall be applied in the computation of taxes for taxable and income years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable and income years beginning on or after the first day of the calendar year following the effective date.

CHAPTER 1128

An act to amend Sections 21201, 21206, and 21208 of, to add Section 21002 to, and to repeal Section 21205 of, the Financial Code, relating to secondhand property.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 21002 is added to the Financial Code, to read:

21002. (a) As used in this division, "pledged property" is property held as security for a loan, the title to which remains with the pledgor and has not passed to the pawnbroker pursuant to Section 21201.

(b) "Vested property" is property the title to which has been transferred from the pledgor to the pawnbroker pursuant to Section 21201. Vested property is not pledged property.

SEC. 2. Section 21201 of the Financial Code is amended to read:

21201. Every loan made by a pawnbroker for which goods are received in pledge as security shall be evidenced by a written contract a copy of which shall be furnished to the borrower. The loan contract shall set forth the loan period and the date on which the loan is due and payable, and shall clearly inform the borrower of his or her right to redeem the pledge during the redemption period.

Every pawnbroker shall retain in his or her possession, after the date on which the loan became due and payable, clothing and furs pledged to him or her for a period of four months, and every other article pledged to him or her for a period of six months. During such periods the borrower may redeem the articles upon payment of the loan and interest charges.

If any pledged article is not redeemed during the four- or six-month redemption period as provided herein, and the borrower and pawnbroker do not mutually agree in writing to extend the redemption period, the pawnbroker shall notify the borrower within 30 days after expiration of the redemption period. The pawnbroker shall notify the borrower either by registered mail, or by certified mail, or by regular mail for which a certificate of mailing is issued by the United States Post Office addressed to his or her last known address of the termination of the redemption period, and extending the right of redemption for a period of 10 days from date of mailing of such notice. If any pledged article is not redeemed within such 10-day period, the pawnbroker shall become vested with all right, title, and interest of the pledgor, or his or her assigns, to the pledged article, to hold and dispose of as his or her own property. Any other provision of law relating to the foreclosure and sale of pledges shall not be applicable to any pledge the title to which is transferred in accordance with this section. The pawnbroker shall not sell any article of pledged property until he or she has become vested with the title to that property pursuant to this section. The sale of pledged property is a misdemeanor pursuant to Section 21209.

SEC. 3. Section 21205 of the Financial Code is repealed.

SEC. 4. Section 21206 of the Financial Code is amended to read:

21206. Every pawnbroker shall produce his or her records of loans, accounts of all sales of vested property, and all pledged property, for inspection by the following persons:

(a) Any officer holding a warrant authorizing him or her to search for personal property.

(b) Any person appointed by the sheriff of any county or appointed by the head of the police department of any city.

(c) Any officer holding a court order directing him or her to examine such records, account of sales, or pledged property.

SEC. 5. Section 21208 of the Financial Code is amended to read:

21208. Every pawnbroker shall report daily or on the first working day after receipt or purchase, all descriptions of all property received in pledge or purchased as tangible personal property, as defined in Section 21627 of the Business and Professions Code, in whatever quantity received, including property purchased as tangible personal property at wholesale, tangible personal property taken in for sale or possessed on consignment for sale, and tangible personal property taken in trade.

If the transaction took place within the territorial limits of an incorporated city, the report shall be submitted to the police chief executive of the city or his or her designee, at the place the police chief executive or his or her designee designates for the submission of these reports. If the transaction took place outside the territorial limits of an incorporated city, the report shall be submitted to the sheriff of the county or his or her designee, at the place the sheriff or his or her designee designates for the submission of these reports.

All reports shall be on forms approved or provided at actual cost

by the Department of Justice. The police chief executive or sheriff who receives a report on a form filed pursuant to the provisions of this section shall daily submit a legible copy of the transactions to the Department of Justice.

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 1129

An act to amend Sections 12020, 12025, and 12076 of the Penal Code, relating to firearms.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any firearm which is not immediately recognizable as a firearm, any ammunition which contains or consists of any flechette dart, any bullet containing or carrying an explosive agent, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, nunchaku, sandclub, sandbag, sawed-off shotgun, or metal knuckles, or who carries concealed upon his person any explosive substance, other than fixed ammunition or who carries concealed upon his person any dirk or dagger, is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison. A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) shall not apply to any of the following:

(1) The manufacture, possession, transportation or use, with blank cartridges, of sawed-off shotguns solely as props for motion picture film or television program production when such is authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and is not in violation of federal law.

(2) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(3) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) Any antique firearm. For purposes of this section, the term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(5) Tracer ammunition manufactured for use in shotguns.

(6) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess such items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such firearms or ammunition who obtains title to such items by bequest or intestate succession may retain title for not more than one year, but actual possession of such items at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(7) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess such weapons pursuant to the Gun Control Act of 1968 (P.L. 90-618; 82 Stat. 1213), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code from possessing such weapons who obtains title to such weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of such weapons at any time shall be punishable pursuant to Section 12021 or 12021.5 of this code or Section 8103 of the Welfare and Institutions Code. Within such year the person shall transfer title to such weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(c) Any person in this state who manufactures or causes to be manufactured, imports into the state, keeps for sale or offers or exposes for sale, or who gives, lends, or possesses any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric

shape for use as a weapon for throwing is guilty of a felony, and upon conviction shall be punishable by imprisonment in the county jail not exceeding one year or in a state prison.

(d) (1) As used in this section a "sawed-off shotgun" means any firearm (including any revolver) manufactured, designed, or converted to fire shotgun ammunition having a barrel or barrels of less than 18 inches in length, or a rifle having a barrel or barrels of less than 16 inches in length, or any weapon made from a rifle or shotgun (whether by manufacture, alteration, modification, or otherwise) if such weapon as modified has an overall length of less than 26 inches.

(2) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(3) As used in this section a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if such firearm may be fired while mounted or enclosed in such case.

(4) As used in this section a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch or similar device, designed to be or capable of being used as an aid in walking, if such firearm may be fired while mounted or enclosed therein.

(5) As used in this section, a "flechette dart" means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths inch of the body.

(e) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 2. Section 12025 of the Penal Code is amended to read:

12025. (a) Except as otherwise provided in this chapter, any person who carries concealed within any vehicle which is under his or her control or direction any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor. Any person convicted under this subdivision who has previously been convicted of any felony, or of any crime made punishable by this chapter, is guilty of a felony, and if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than three months.

(b) Any person who carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a misdemeanor punishable by imprisonment in the county jail not to exceed one year, or by a fine not to exceed one thousand dollars ($1,000), or by both such fine and

imprisonment, except any person, having been convicted of a crime against the person, property or a narcotics or dangerous drug violation, who carries concealed upon his or her person any pistol, revolver, or other firearm capable of being concealed upon the person without having a license to carry such firearm as provided in this chapter is guilty of a public offense and is punishable by imprisonment in a state prison, or by imprisonment in a county jail not to exceed one year, or by a fine not to exceed one thousand dollars ($1,000), or by both such fine and imprisonment. Any person convicted under this subdivision who has previously been convicted of any felony or of any crime made punishable by this chapter, is guilty of a felony, and if probation is granted, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for not less than three months.

(c) Firearms carried openly in belt holsters are not concealed within the meaning of this section, nor are knives which are carried openly in sheaths suspended from the waist of the wearer.

(d) Every person convicted under this section who has previously been convicted of a misdemeanor offense enumerated in Section 12001.6 shall be punished by imprisonment in the county jail for at least three months and not exceeding six months, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned in the county jail for at least three months.

(e) The court shall apply the three-month minimum sentence as specified in subdivisions (a), (b), and (d) except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in subdivisions (a), (b), and (d) or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in subdivisions (a), (b), and (d), in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

SEC. 3. Section 12076 of the Penal Code is amended to read:

12076. (a) The purchaser of any firearm capable of being concealed upon the person shall sign, and the dealer shall require him to sign, his legal name and affix his residence address and date of birth to the register in quadruplicate. The salesman shall affix his signature in quadruplicate on each sheet as a witness to the signature of the purchaser. Any person furnishing a fictitious name or address or knowingly furnishing an incorrect birth date, and any person violating any of the provisions of this section is guilty of a misdemeanor.

(b) Two copies of the original sheet of the register shall, on the date of sale, be placed in the mail, postage prepaid, and properly addressed to the Department of Justice at Sacramento. The third

copy of the original shall be mailed, postage prepaid, to the chief of police, or other head of the police department, of the city or county wherein the sale is made. Where the sale is made in a district where there is no municipal police department, the third copy of the original sheet shall be mailed to the sheriff of the county wherein the sale is made.

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

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

SEC. 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 1130

An act to amend Section 12001 of the Health and Safety Code, relating to explosives.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 12001 of the Health and Safety Code is amended to read:

12001. This part does not apply to any of the following:

(a) Any person engaged in the transportation of explosives regulated by, and when subject to, the provisions of Division 14 (commencing with Section 31600) of the Vehicle Code.

(b) Small arms ammunition of .75 caliber or less when designated as a class C explosive by the United States Department of Transportation.

(c) Fireworks regulated under Part 2 (commencing with Section 12500) of this division, including, but not limited to, special effects

pyrotechnics regulated by the State Fire Marshal pursuant to Section 12555.

(d) Any explosives while in the course of transportation via railroad, aircraft, water, or highway when the explosives are in actual movement and under the jurisdiction of and in conformity with regulations adopted by the United States Department of Transportation, United States Coast Guard, or the Federal Aviation Agency. However, no explosives shall be sold, given away, or delivered except as provided in Section 12120.

(e) Special fireworks classified by the United States Department of Transportation as class B explosives when such special fireworks are regulated under Part 2 (commencing with Section 12500) of this division.

(f) (1) Black powder in quantities of 25 pounds or less in the hands of a retailer having a permit issued under Article 2 (commencing with Section 6066) of Chapter 2 of Part 1 of Division 2 of the Revenue and Taxation Code and in quantities of five pounds or less in the hands of all others and smokeless powder in quantities of 20 pounds or less used, possessed, stored, sold, or transported that is exempted under, or authorized by, the Federal Organized Crime Control Act of 1970 (P.L. 91-452 of the 91st Congress) and applicable federal regulations thereunder.

(2) All cities, counties, and special districts and county service areas providing fire protection shall require retailers in possession of black powder to notify fire authorities.

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 1131

An act to amend Section 20221 of, and to add Sections 20224, 20225, 20226, 20227, and 20228 to, the Public Contract Code, and to amend Section 29034.5 of, and to repeal Article 3 (commencing with Section 28990) of Chapter 6 of Part 2 of Division 10 of, the Public Utilities Code, relating to transit districts.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 20221 of the Public Contract Code is amended to read:

20221. (a) The purchase of all supplies, equipment, and materials when the expenditure required exceeds twenty-five thousand dollars ($25,000), and the construction of facilities and works when the expenditure required exceeds ten thousand dollars ($10,000), shall be by contract let to the lowest responsible bidder. Notice requesting bids shall be published at least once in a newspaper of general circulation, which publication shall be made at least 10 days before the bids are received. The board may reject any and all bids and readvertise in its discretion.

(b) Whenever the expected procurement required exceeds one thousand dollars ($1,000) and, in the case of the construction of facilities and works does not exceed ten thousand dollars ($10,000) or in the case of the purchase of supplies, equipment, or materials does not exceed twenty-five thousand dollars ($25,000), the district shall obtain a minimum of three quotations, either written or oral, which permit prices and terms to be compared.

(c) Where the expenditure required by the bid price is less than fifty thousand dollars ($50,000), the general manager may act for the board.

SEC. 2. Section 20224 is added to the Public Contract Code, to read:

20224. Upon determining that immediate remedial measures to avert or alleviate damage to property, or to repair or restore damaged or destroyed property, of the district are necessary in order to insure that the facilities of the district are available to serve the transportation needs of the general public, and upon determining that available remedial measures, including procurement in compliance with Sections 20221, 20222, and 20223, are inadequate, the general manager may authorize the expenditure of money previously appropriated specifically by the board for the direct purchases of goods and services, without observance of the provisions of those sections.

The general manager shall, after any such expenditure, submit to the board a full report explaining the necessity for the action.

SEC. 3. Section 20225 is added to the Public Contract Code, to read:

20225. The general manager may establish districtwide purchasing standards, the purpose of which is to insure the necessary quality of supplies and equipment purchased by, or under the supervision of, the district and to permit the consolidation of purchases in order to effect greater economy in district purchasing.

SEC. 4. Section 20226 is added to the Public Contract Code, to

read:

20226. Notwithstanding Section 20221, and upon a finding by two-thirds of all members of the board that the proposed purchase in compliance with Sections 20221 and 20222 does not constitute a method of procurement adequate for the operation of district facilities or equipment, the board may direct the procurement of prototype equipment or modifications in an amount sufficient to conduct and evaluate operational testing without further observance of any provisions requiring contracts, bids, or notice.

SEC. 5. Section 20227 is added to the Public Contract Code, to read:

20227. Notwithstanding Section 20221, the board may direct the purchase of any supply, equipment, or material without observance of any provision requiring contracts, bids, or notice upon a finding by two-thirds of all members of the board that there is only a single source of procurement therefor and that the purchase is for the sole purpose of duplicating or replacing supply, equipment, or material, as the case may be, in use.

SEC. 6. Section 20228 is added to the Public Contract Code, to read:

20228. Notwithstanding Section 20221, work on the Oakland Wye complex to the MacArthur Station project and on the Daly City turn-back and storage facilities project may be performed by district personnel during periods of operation of the transit system when interconnection work is to be performed within 12 feet of the centerline of the existing track.

SEC. 7. Article 3 (commencing with Section 28990) of Chapter 6 of Part 2 of Division 10 of the Public Utilities Code is repealed.

SEC. 8. Section 29034.5 of the Public Utilities Code is amended to read:

29034.5. (a) The district may approve annexation of areas to the district pursuant to Chapter 9 (commencing with Section 29500) or other forms of affiliation; however, the district shall meet its service commitments within its boundaries as they existed on January 1, 1971, before the district may expend any district funds for the purpose of extending services and facilities outside of those boundaries.

(b) This section does not preclude either of the following:

(1) Rail line extensions to other areas that may be annexed to, or in some other way are affiliated with, the district, if other than district funds are used to finance the construction and operation of the extensions.

(2) Improvements to existing district stations and yards, including construction of a new turnback zone, storage tracks, and a maintenance facility south of the Daly City station.

(c) As used in this section, "service commitments" means the extension of district services and facilities to the Cities of Antioch, Pittsburg, Pleasanton, Livermore, and Fremont and to the northwest section of the City and County of San Francisco.

CHAPTER 1132

An act to amend Sections 13131 and 13143 of, and to repeal Section 13131.3 of, the Health and Safety Code, relating to fire prevention.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 13131 of the Health and Safety Code is amended to read:

13131. "Nonambulatory persons" means persons unable to leave a building unassisted under emergency conditions. It includes any person who is unable, or likely to be unable, to physically and mentally respond to a sensory signal approved by the State Fire Marshal, or an oral instruction relating to fire danger, and persons who depend upon mechanical aids such as crutches, walkers, and wheelchairs. The determination of ambulatory or nonambulatory status of persons with developmental disabilities shall be made by the Director of Social Services or his or her designated representative, in consultation with the Director of Developmental Services or his or her designated representative. The determination of ambulatory or nonambulatory status of all other disabled persons placed after January 1, 1984, who are not developmentally disabled shall be made by the Director of Social Services, or his or her designated representative.

SEC. 2. Section 13131.3 of the Health and Safety Code is repealed.

SEC. 3. Section 13143 of the Health and Safety Code is amended to read:

13143. (a) Except as provided in Section 18930, the State Fire Marshal, with the advice of the State Board of Fire Services, shall prepare, adopt, and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 and shall prepare and adopt other regulations establishing minimum requirements for the prevention of fire and for the protection of life and property against fire and panic in any building or structure used or intended for use as an asylum, jail, mental hospital, hospital, sanitarium, home for the aged, children's nursery, children's home or institution not otherwise excluded from the coverage of this subdivision, school, or any similar occupancy of any capacity, and in any theater, dancehall, skating rink, auditorium, assembly hall, meeting hall, nightclub, fair building, or similar place of assemblage where 50 or more persons may gather together in a building, room, or structure for the purpose of amusement, entertainment, instruction, deliberation, worship, drinking or dining, awaiting transportation, or education, and in any building or structure which is open to the public and is used or intended to be used for the showing of motion pictures when an admission fee is

charged and when the building or structure has a capacity of 10 or more persons. The State Fire Marshal shall adopt and submit building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13 for the purposes described in this section. Regulations adopted pursuant to this subdivision and building standards relating to fire and panic safety published in the State Building Standards Code shall establish minimum requirements relating to the means of egress and the adequacy of exits from, the installation and maintenance of fire extinguishing and fire alarm systems in, the storage and handling of combustible or explosive materials or substances, and the installation and maintenance of appliances, equipment, decorations, and furnishings that present a fire, explosion or panic hazard, and the minimum requirements shall be predicated on the height and fire-resistive qualities of the building or structure and the type of occupancy for which it is to be used. The building standards and other regulations shall apply to auxiliary or accessory buildings used or intended for use with any of the occupancies mentioned in this subdivision. Violation of any building standard or other regulation shall be a violation of the provisions of this chapter.

In preparing and adopting building standards for approval pursuant to Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13, and in preparing and adopting other regulations affecting public schools, the State Fire Marshal shall also secure the advice of the State Department of Education. No regulation adopted by the State Fire Marshal shall conflict with any rule, regulation, or building standard lawfully adopted or enforced by the Department of General Services pursuant to Article 3 (commencing with Section 39140) of Chapter 2 of Part 23 or Article 7 (commencing with Section 81130) of Chapter 1 of Part 49 of the Education Code.

(b) Notwithstanding the provisions of subdivision (a) and Section 13143.6, facilities licensed pursuant to Chapter 3 (commencing with Section 1500) of Division 2 which provide nonmedical board, room, and care for six or fewer ambulatory children placed with the licensee for care or foster family homes and family day care homes for children, licensed pursuant to Chapter 3.6 (commencing with Section 1597.50) of Division 2, with a capacity of six or fewer and providing care and supervision for ambulatory children or children two years of age or younger, or both, shall not be subject to the provisions of Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of this chapter or regulations adopted pursuant thereto. No city, county, or public district shall adopt or enforce any requirement for the prevention of fire or for the protection of life and property against fire and panic with respect to structures used as facilities specified in this subdivision, unless the requirement would be applicable to a structure regardless of the special occupancy. Nothing in this subdivision shall restrict the application of state or local housing standards to those facilities, if the standards are applicable to residential occupancies and are not based

upon the use of the structure as a facility specified in this subdivision.

"Ambulatory children," as used in this subdivision, does not include nonambulatory persons, as defined in Section 13131, and relatives of the licensee or the licensee's spouse.

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 1133

An act to amend Sections 41920 and 52309 of, and to repeal and add Article 15 (commencing with Section 51870) to Chapter 5 of Part 28 of, the Education Code, and to repeal Sections 2, 3, 4, 5, 6, 7, 8, and 9 of Chapter 1528 of the Statutes of 1982, relating to education, and making an appropriation therefor.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. It is the intent of the Legislature to provide a statewide coordinated basis for all segments of the public education system to respond to the changing educational needs of California's population. The Legislature recognizes its historic commitment to providing youth with education which leads to remunerative employment. The Legislature finds that California's students need strong reading, math, science, and technological skills if they are to find employment in an increasingly technological society.

It is also the intent of the Legislature that budget allocations for educational programs designed to strengthen technological skills be structured to ensure that all California school pupils will have equitable access to those programs, and to remain responsive to changing socioeconomic conditions, developments in knowledge of the learning process, and emerging student needs within a district or region.

The Legislature recognizes the need to begin to prepare a computer literate workforce to meet projected labor needs for business and industry. It is the intent of the Legislature that highest

priority be placed on educational technology local assistance programs which incorporate elements of computer education. It is further the intent of the Legislature that all segments of public education seek to involve the industrial sector in those programs where that involvement would serve to enhance the responsiveness of technological education to the needs of students and the workplace.

It is the intent of the Legislature that the Educational Technology Committee shall work with industry groups and individual businesses to inform them of educational programs with identified needs. It is not the intent of the Legislature in enacting this act to create any new tax deductions or exemptions for industry in connection with these coordinated efforts.

SEC. 2. Section 41920 of the Education Code is amended to read:

41920. Allowances to school districts for the educational technology local assistance program established pursuant to Article 15 (commencing with Section 51870) of Chapter 5 of Part 28 shall be determined using as a guide twenty-five cents ($0.25) multiplied by the number of pupils enrolled in the California public school system during the preceding fiscal year, for purposes of instructional television programs.

It is the intention of the Legislature that the system of allowances above the amounts prescribed by this section be used only as means to establish a proposed level of funding for the educational technology local assistance program. It is further the intention of the Legislature that the actual funding level for the educational technology local assistance program be provided each year through the annual Budget Act, commencing with the 1984–85 fiscal year. Any activities mandated pursuant to the educational technology local assistance program shall be undertaken only to the extent that funds are appropriated for support of the activity.

Allowances for the educational technology local assistance program shall be made by the State Board of Education upon the advice of the Educational Technology Committee, subject to the provisions of Article 15 (commencing with Section 51870) of Chapter 5 of Part 28.

SEC. 3. Article 15 (commencing with Section 51870) of Chapter 5 of Part 28 of the Education Code is repealed.

SEC. 4. Article 15 (commencing with Section 51870) is added to Chapter 5 of Part 28 of the Education Code, to read:

Article 15. Educational Technology Local Assistance Program

51870. The county superintendent of schools may contract on behalf of any school district under his or her jurisdiction and for the schools and classes he or she operates, subject to the approval of the Superintendent of Public Instruction, to procure television broadcasts or closed-circuit television programs for use in the educational program of the schools in the district, and for the

educational program of the schools and classes operated by the county superintendent.

51871. A school district may provide for or contract for, subject to the approval of the Superintendent of Public Instruction, the procuring of television broadcasts or closed-circuit television programs for use in the educational program of the schools of the district.

51872. The following definitions, unless the context otherwise requires, shall govern the construction of this article.

(a) "Categorical computer hardware" means those computers and peripherals purchased with categorical program funds.

(b) "Categorical computer software" means those computer programs purchased with categorical program funds.

(c) "Computer education" means the process of teaching people about computers, including, but not limited to, computer skills training, computer assisted instruction, computer programming, and computer literacy training.

(d) "Computer related employers" means those employers who require their employees to use a computer in the course of performing their job.

(e) "Computer related employment" means those jobs that require the use of a computer in the course of performing the job.

(f) "Educational technology" means those electronic systems, such as television, radio, computers, and other emerging state-of-the-art equipment, used as part of instructional devices available for classroom instruction.

(g) "Equipment" means any hardware, device, or other telecommunications technology that delivers instructional programming.

(h) "Group purchase" means acquiring instructional programming or equipment in conjunction with other state, regional, or national organizations for use by local school districts which will result in effective use of limited resources.

(i) "Instructional programming" means programs with content which is closely related to the adopted formal curriculum of the public schools.

(j) "Parental involvement" means those programs that involve parents in the educational process, including, but not limited to, programs which provide guidelines for helping students with homework and for instruction with home computers.

(k) "Regional organization" means any agency, such as an instructional television region or a teacher education and computer center, organized under the auspices of one or more county superintendents of schools, or one or more school districts, or any combination of county superintendents of schools and school districts, pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, or other appropriate authority, with a demonstrated interest in and capacity for providing services related to educational technology to students,

their parents, teachers, and administrators in the area served by the regional organization. A regional organization shall include only county superintendents of schools or school districts of this state, or a combination of both.

(*l*) For purposes of Sections 51875, 51875.1, and 51875.3, "school district" shall include any county office of education which provides direct instructional services to pupils and which applies for an educational technology local assistance program matching grant for those instructional services, except in the context of requirements imposed by those sections which the Educational Technology Committee has determined are not appropriately applicable to such a county office of education.

51873. (a) There is in state government an Educational Technology Committee consisting of 13 members selected or appointed in the following manner:

(1) Two members appointed by the Speaker of the Assembly, one representing business or industry in a technological field, and one representing elementary or secondary education.

(2) Two members appointed by the Rules Committee of the Senate, one representing business or industry in a technological field, and one representing elementary or secondary education.

(3) Two members appointed by the Governor, one representing business or industry in a technological field, and one representing a public teacher preparation program.

(4) Three members appointed by the Superintendent of Public Instruction, one representing business or industry in a technological field, one representing elementary or secondary education, and one with experience in the use of computers for instructional purposes.

(5) Two members appointed by the State Board of Education, one representing instructional television programs, and one representing the teacher education and computer centers.

(6) One member who is the President of the State Board of Education, or his or her designee.

(7) One member who is the chairperson of the California Public Broadcasting Commission, or his or her designee.

(b) Members of the Education Technology Committee shall serve without compensation, except that members shall be reimbursed for their actual and necessary travel expenses incurred in the performance of their duties. Terms for members shall be for a period of four years. The term of any student members appointed to the committee shall be one year.

(c) Initial terms for the first members appointed to the committee shall be as follows:

Terms of the two members appointed by the Governor, the Rules Committee of the Senate, the Speaker of the Assembly, and the State Board of Education, respectively, shall be one for two years and one for four years.

Terms of the three members appointed by the Superintendent of Public Instruction shall be one for two years, and two for four years.

After these initial terms have expired, all subsequent members, with the exception of any student members who may be appointed to the committee, shall be appointed to a four-year term.

51873.1. The duties of the Educational Technology Committee shall include, but not be limited to, the following:

(a) Apprising the State Board of Education and the Superintendent of Public Instruction of continuing developments in information technologies and their application to education.

(b) Serving in an advisory capacity to the State Department of Education in the appropriate use of new technologies.

(c) Advising the State Board of Education on the allocation of grants for educational software research and development pursuant to paragraph (4) of subdivision (b) of Section 51873.3, grants to teachers pursuant to paragraph (8) of subdivision (b) of Section 51873.3, educational technology local assistance program matching grants pursuant to Sections 51875 and 51875.5, grants for job market studies pursuant to Section 51875.7, grants to public postsecondary educational institutions pursuant to Section 51875.9, grants to teacher education and computer centers pursuant to Section 51876, and grants to the California Public Broadcasting Commission pursuant to Section 51877.

In the allocation of grants pursuant to this section, consideration shall be given to successful ongoing programs, including exemplary projects for mathematics, reading, and science, as well as instructional television programs.

(d) Advising the State Board of Education on efforts to ensure equal student access to computer education programs taking into account varied socioeconomic conditions, urban-rural differences, gender, and developments in knowledge of the learning process.

(e) Submitting an annual budget request identifying proposed funding levels for the educational technology local assistance program to the State Board of Education and the Legislature.

(f) Developing standards for educational computer software purchased pursuant to this article.

(g) Assessing the quality of preparation for employment in technological fields provided by the public secondary school system, and developing a long-range statewide strategy for improving that preparation. The strategy shall include, but not be limited to, all of the following:

(1) Solutions to address the problem of the decline in mathematics and science skills of both teachers and students.

(2) Methods for mobilizing and integrating private sector involvement in public secondary school programs in technological fields.

(3) A method for periodic reassessment of the need for preparation for employment in technological fields.

51873.3. (a) Under the rules and regulations adopted by the State Board of Education pursuant to Section 51878, the Superintendent of Public Instruction shall administer an educational

technology local assistance program for the school pupils of California.

(b) The duties of the superintendent shall include, but not be limited to, the following:

(1) Coordinating all State Department of Education activities relating to computer education through one unit of the department.

(2) Purchasing statewide access to computer education materials and distributing the access to all interested parties within the public school system for kindergarten and grades 1 to 12, inclusive.

(3) Obtaining instructional programming for use statewide by regional organizations, county superintendents of schools, school districts, and other agencies concerned with educational technology programs through purchase, lease, or other agreement.

To the extent possible, instructional programming shall be made available to pupils in the areas determined by the Educational Technology Committee to have the highest priorities of need statewide, based upon information provided by school districts and regional organizations.

(4) Providing for the production of the highest quality educational technology programs possible within the limits of available resources for distribution on a statewide basis. The superintendent shall ensure that the areas determined by the Educational Technology Committee to have the highest priorities of need statewide, based upon information provided by school districts and regional organizations, are the first to receive distributed programs.

It is the intent of the Legislature that the superintendent coordinate efforts with private educational software developers to inform them of educational software needed for use in California schools. The superintendent may also contract for the research and development of educational software in accordance with priorities established to meet pupil needs. Contractual agreements may include provisions granting the state ownership rights with respect to educational software developed under these contracts. Costs associated with the development of educational software as well as costs associated with the research and development of educational software by pupils and teachers may be funded under the educational technology local assistance program.

(5) Negotiating group purchases for equipment in broadcast, recording, computing, and other educational technologies.

(6) Providing for statewide coordination among regional organizations, county superintendents of schools, school districts, and other agencies concerned with educational technology programs for the purpose of facilitating the development and economical provision of high-quality educational technology programs.

(7) Developing procedures to provide, to the extent federal law permits, all students with access to categorical computer hardware and software, including that which was purchased with compensatory education funds, when that equipment is not being

used as part of a program financed by categorical funds.

(8) Developing and administering a system for making grants to individual teachers engaged in exemplary programs using educational technology Grants awarded pursuant to this paragraph shall be in an amount which is not more than one thousand dollars ($1,000). Funding for the grant system shall be allocated by the State Board of Education upon the advice of the Educational Technology Committee. Purposes for which grants may be awarded shall include, but not be limited to, the development of class materials necessary to integrate educational technology with regular curriculum, development or purchase of computer software, and purchase of computer hardware.

(9) Providing staff to the Educational Technology Committee. In this capacity, the superintendent shall have responsibility for the development of a system and criteria for awarding grants under the educational technology local assistance program. The criteria for awarding grants shall be consistent with the provisions of this article, and shall include any other factors the Educational Technology Committee deems necessary. To the extent feasible, grant criteria and the application process shall be kept to a minimum, in order to ensure efficient administration of funds.

The superintendent shall make recommendations to the Educational Technology Committee regarding appropriate levels of funding for each grant awarded pursuant to Section 51875, and other grants described in subdivision (c) of Section 51873.1, based upon its review of the proposal submitted by the school district for compliance with the provisions of this article.

(10) Working with industry groups and individual businesses to inform them of the priorities and needs of schools for technological equipment, software, training, and other technical assistance.

51875. (a) A school district shall be eligible to apply for an educational technology local assistance program matching grant which provides ten dollars ($10) of funding for every one dollar ($1) provided by the school district for any of the following purposes:

(1) The use of educational technology in the programs of the school district.

(2) Any use of computers in the school district's instructional programs.

(3) A proposed reading, math, or science project meeting the criteria specified in Section 51875.3.

(b) Use of funds pursuant to paragraphs (1) and (2) shall be based upon a plan approved by the governing board of the school district. The plan may be submitted to the Educational Technology Committee or the State Department of Education, and shall be available for purposes of an audit or the investigation of a complaint.

(c) The application for an educational technology local assistance program matching grant pursuant to this section shall be kept as simple as possible, and may be incorporated in the applicant district's consolidated application for state and federal program funds

pursuant to Division 5 (commencing with Section 3900) of Title 5 of the California Administrative Code. The application shall include assurance of compliance with the provisions of Sections 51875.1, or 51875.3, as necessary.

51875.1. (a) A school district which applies for funds pursuant to paragraphs (1) or (2) of subdivision (a) of Section 51875 shall develop either a comprehensive plan for the use of educational technology, which may include television, or a plan for the use of computers in the school district's educational programs, as is appropriate. The plan shall be developed in cooperation with parents, teachers, administrators, regional organizations, students, and, where possible, representatives from local business and industry in technological fields. The development of the educational technology or computer education plan shall be integrated with existing school and districtwide planning efforts to the maximum extent feasible.

(b) The comprehensive educational technology or computer education plan shall include, but not be limited to, all of the following:

(1) An assessment of existing educational technology or computer education programs within the school district.

(2) A plan for expansion of successful educational technology or computer education programs within the district.

(3) An assessment of inservice training needs associated with educational uses of technology or computers, and a plan for meeting those needs.

(4) A plan for ensuring the widest possible student access to technological or computer equipment used in educational programs within the district, including a proposal for alternate uses of equipment purchased through categorical programs when that equipment is not being used in conjunction with the particular categorical program.

51875.3. Proposals for reading, math, or science projects shall be designed to accomplish all of the following objectives:

(a) Clarify the appropriate minimum standards of competence in reading, mathematics, and science-based fields for students at each school level.

(b) Identify project participants and systematically improve the proficiency of project participants, teachers trained by project participants, and, ultimately, students attending public elementary, secondary and postsecondary schools, in basic skills used in mathematics and science.

(c) Integrate the project with any staff development programs established pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25 and provided by regional resource centers located in the same geographic area as participating school districts, community college districts, and universities.

(d) Provide financial and personnel support for the project through participating school districts, colleges, and universities.

(e) Select project participants so that an elementary school teacher will interact with teachers from the secondary school in the district where that elementary school teacher's pupils will enroll upon completion of the elementary school program.

(f) Involve various levels and segments of education in a cooperative approach.

(g) Use project participants to subsequently train others in the school district, college, or university.

(h) Provide continuing training in basic skills to project participants.

51875.5. (a) The educational technology local assistance program may provide a county office of education with matching funds in the ratio of ten dollars ($10) for every one dollar ($1) provided by the county office for the purpose of identifying and assisting those school districts located within the county which do not have a computer education plan.

(b) In order to be eligible to apply for funds pursuant to subdivision (a), a county office of education shall obtain the approval of the governing boards of school districts which are affected by the county's plan, are located within the county, and which do not have a computer education plan. County offices of education may apply for funding pursuant to subdivision (a) as a cooperative pursuant to Section 3945 of Title 5 of the California Administrative Code.

(c) A county office of education shall consult with school districts located within the county which are developing a computer education plan, in order to identify ways in which the county office may provide computer education services of a higher quality and at a lower cost than other alternatives available to the school district.

51875.7. A school district or community college district, or county superintendent sponsoring a regional occupational center or program shall be eligible to receive grant assistance from the educational technology local assistance program for purposes of conducting, or entering into a contract for the conducting of, a job market study pursuant to Section 52302 which assesses the need for courses in computer related occupations. The results of the job market studies shall be made available to school counselors in the district or county.

51875.9. (a) The State Board of Education, upon the advice of the Educational Technology Committee, may award grants to public postsecondary educational institutions for any of the following purposes:

(1) Providing computer education courses as part of an approved teacher preparation program.

(2) Conducting studies of computer assisted instruction.

(b) Teacher preparation programs which provide computer education courses funded pursuant to this section shall, to the extent feasible, develop those courses in cooperation with the local teacher education and computer center in order to assist the center in meeting regional teacher training needs.

51876. (a) Upon request a teacher education and computer center shall, to the extent feasible, assist school districts located within its region in the development of educational technology plans, computer education plans, or proposals for reading, math, or science projects.

(b) A teacher education and computer center shall, to the extent feasible, advise those public postsecondary educational institutions located within its region which have received grants pursuant to Section 51875.9 regarding the training needs of the region's teachers.

(c) Teacher education and computer centers, in cooperation with the Educational Technology Committee, shall develop and implement a plan to link by means of computer the teacher education and computer centers. A teacher education and computer center shall be eligible to receive grants from the educational technology local assistance program for the purposes of this section.

51877. (a) The Educational Technology Committee may develop a request for proposals and award a contract for the production of a television-based learning system which will inform teachers, parents, and the general public of the nature, operation, and function of computers, and their educational applications in the public elementary and secondary school systems.

(b) A request for proposals developed pursuant to subdivision (a) shall be designed, to the extent feasible, to provide participants using the learning system with the following:

(1) Familiarity with the nature, functions and components of a computer system.

(2) Awareness of computerized teaching materials in a variety of fields.

(3) Knowledge of the variety of forms of computer assisted instruction being integrated into classroom curricula.

(4) Information about available resources, people, software, books, organizations, and how to reach and use them.

(5) Ability to evaluate the capabilities and limitations of computers commonly used in education and to decide on an appropriate system for the individual teacher.

(6) Expertise in assessing the suitability of available computer courseware to existing educational objectives.

(7) Ability to operate a computer.

(8) Ability to develop one or more simple computer programs.

It is the intent of the Legislature that the learning system shall not endorse particular brands of computers or computerized teaching materials.

(c) The learning system shall be developed in cooperation with the Educational Technology Committee.

(d) The educational technology local assistance program shall retain half of the income beyond the costs of production from any subsequent sale of all or part of the material developed for the learning system. These sales may include, but are not limited to, broadcast television, cable television, video tape, video disc,

computer program or print sales.

(e) A public television station may receive funding for the learning system from a grant from the educational technology local assistance program. It is the intent of the Legislature that the station also seek private funding for the development of the learning system.

51878. The State Board of Education shall establish rules and regulations governing the administration of this article and may request assistance and advice from any interested entities and individuals in the exercise of this responsibility. The Superintendent of Public Instruction shall enforce the board rules and regulations.

51879. (a) The educational technology local assistance program shall cease to be operative on June 30, 1989, unless the Legislature enacts legislation to continue the program after the study prescribed in Section 62006.

(b) The State Department of Education shall prepare a sunset review report of the educational technology local assistance program.

(c) The State Department of Education shall submit to the Educational Technology Committee the sunset report prepared pursuant to subdivision (b).

51879.3. The Educational Technology Committee shall review the sunset report prepared pursuant to Section 51879 and transmit the report, along with any further recommendations, to the State Board of Education.

51879.5. The State Board of Education shall transmit the sunset report prepared pursuant to Section 51879, by March 1, 1987, to the legislative fiscal committees, copies of the report and recommendations submitted to the board by the Educational Technology Committee pursuant to Section 51879.3, along with any further recommendations by the board.

SEC. 5. Section 52309 of the Education Code is amended to read:

52309. The curriculum provided by a regional occupational center or regional occupational program shall be subject to the approval of the department and shall comply with all requirements and standards set forth in the State Plan for Vocational Education. The department shall approve regional occupational centers only after giving due consideration to vocational education opportunities offered by community colleges serving the same geographical area. The State Board of Education shall adopt rules and regulations establishing guidelines and criteria for differentiating between courses appropriate for regional occupational centers or regional occupational programs and those appropriate for high schools.

The Superintendent of Public Instruction shall prepare and distribute by April 1, 1977, and thereafter maintain, a detailed handbook for use by the local educational agencies and regional councils established pursuant to Section 8020. The handbook shall contain course approval criteria, job market study criteria, implementation plans for administrative regulations, and procedures for securing course and program approvals.

SEC. 6. Section 2 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 7. Section 3 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 8. Section 4 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 9. Section 5 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 10. Section 6 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 11. Section 7 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 12. Section 8 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 13. Section 9 of Chapter 1528 of the Statutes of 1982 is repealed.

SEC. 14. Any unexpended funds remaining on January 1, 1984, from funds appropriated for Educational Technology Local Assistance and Exemplary Projects by Item 6100-181-001 and Item 6100-191-001, respectively, of the Budget Act of 1983 are reappropriated to the Educational Technology Committee, as successor to the Council on Technology Education.

SEC. 15. From funds appropriated for purposes of implementing the provisions of this article for the 1983–84 fiscal year by paragraph (14) of subdivision (a) of Section 41301.3 of the Education Code, as added by Chapter 498 of the Statutes of 1983, the sum of three hundred thousand dollars ($300,000) shall be for state operations, and the remainder shall be used for purposes of funding grants under the provisions of this article.

CHAPTER 1134

An act to amend Section 10212 of the Unemployment Insurance Code, relating to the employment training, and making an appropriation therefor.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1 Section 10212 of the Unemployment Insurance Code is amended to read:

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, who shall be exempt. After consultation with the panel, the Governor shall appoint two assistant directors who shall be exempt from state civil service and who shall serve at the pleasure of the panel.

SEC. 2. Notwithstanding the provisions of Section 28 of the Budget Act of 1983, the Department of Finance is authorized to modify the 1983 Budget Act expenditure authority for the Department of Industrial Relations, Item 8350-001-001, for the purpose of providing employment training and counseling services to displaced automotive workers.

CHAPTER 1135

An act to amend Sections 202 and 904, and to repeal and add Section 903, of the Welfare and Institutions Code, relating to juvenile court law, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 202 of the Welfare and Institutions Code is amended to read:

202. (a) The purpose of this chapter is to secure for each minor under the jurisdiction of the juvenile court such care and guidance, preferably in the minor's own home, as will serve the spiritual, emotional, mental, and physical welfare of the minor and the best interests of the state; to protect the public from criminal conduct by minors; to impose on the minor a sense of responsibility for his or her own acts; to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public; and, when the minor is removed from his or her own family, to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents This chapter shall be liberally construed to carry out these purposes.

(b) The purpose of this chapter also includes the protection of the public from the consequences of criminal activity, and to such purpose probation officers, peace officers, and juvenile courts shall take into account such protection of the public in their determinations under this chapter.

(c) It is also the purpose of this chapter to reaffirm that the duty of a parent to support and maintain a minor child continues, subject to the financial ability of the parent to pay, during any period during

which the minor may be declared a ward of the court and removed from the custody of the parent.

SEC. 2. Section 903 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 903 is added to the Welfare and Institutions Code, to read:

903. A parent of a minor, the estate of a parent, and the estate of the minor, shall be liable for the reasonable costs of support of the minor while the minor is placed, or detained in, or committed to, any institution or other place pursuant to order of the juvenile court. The liability of these persons and estates shall be a joint and several liability.

It shall be the responsibility of a county to demonstrate to any person against whom it seeks to enforce the liability established by this section, that the charges it seeks to impose are limited to the reasonable costs of support of the minor and that these charges exclude any costs of incarceration, treatment, or supervision for the protection of society and the minor and the rehabilitation of the minor. The county shall separately itemize the cost of each major component, such as food, clothing and medical expense, contained within the costs of support of the minor, for any person against whom the county seeks to impose liability under this section.

As used in this section, "costs of support" means that portion of the costs incurred by the county in maintaining a minor that are equivalent to the reasonable expenditures required of a parent pursuant to Sections 196, 207, and 208 of the Civil Code, and does not include the expenses of incarceration, treatment, or supervision imposed for the protection of society and the minor and his or her rehabilitation.

SEC. 4. Section 904 of the Welfare and Institutions Code is amended to read:

904. The monthly or daily charge, not to exceed cost, for care, support, and maintenance of minor persons placed or detained in or committed to any institution by order of a juvenile court, the cost of legal services referred to by Section 903.1, the cost of probation supervision referred to by Section 903.2, and the cost of sealing records referred to by Section 903.3 shall be determined by the board of supervisors.

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.

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 insure reimbursement by parents to counties for the

costs of the care, support, and maintenance of minors who have been detained pursuant to an order of the juvenile court that are unrelated to the cost of incarceration, suspension, and treatment attributable to confinement, and to also insure that parents are not charged the cost of incarceration, suspension, and treatment attributable to confinement, it is necessary that this act take immediate effect.

CHAPTER 1136

An act to amend Sections 25365 and 25536.7 of, and to add Article 7.5 (commencing with Section 25515) to Chapter 5 of Part 2 of Division 2 of Title 3 of, the Government Code, relating to property of counties.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 25365 of the Government Code is amended to read:

25365. The board of supervisors may, by a four-fifths vote, grant, convey, quitclaim, assign, or otherwise transfer to the state or to any community redevelopment agency, housing authority, community development commission, surplus property authority, federal agency, city, school district, irrigation, flood control, county board of education, or other special district within the county or exchange with such public entities, any real or personal property, or interest therein belonging to the county upon such terms and conditions as are agreed upon and without complying with any other provisions of this code, if the property or interest therein to be granted and conveyed or quitclaimed is not required for county use or in the event of an exchange, the property to be acquired is required for county use. The board of supervisors may also, by a four-fifths vote, exchange real property of equal value with any person, firm or corporation, for the purpose of removing defects in the title to real property owned by the county, or where the real property to be exchanged is not required for county use and the property to be acquired is required for county use.

Unless the body or agency to which the property is transferred pursuant to this section and the body or agency transferring the property are governed by the same county board of supervisors, the transferring board of supervisors shall publish a notice of its intended action pursuant to Section 6061 at least one week prior thereto in a newspaper of general circulation published in the county.

SEC. 2. Article 7.5 (commencing with Section 25515) is added to Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code, to read:

Article 7.5. Development of Public Property

25515. The Legislature finds that counties are faced with critical revenue shortages and a need for additional revenue sources to provide basic and essential public services.

The Legislature finds that counties own property which, if permitted to be developed by a joint venture agreement between private enterprise and commercial, industrial, and cultural uses, would provide a means to produce additional revenue sources for the benefit of the counties owning such property, and aid the economic well-being of the state generally.

The Legislature further finds that due to reductions in personnel or programs counties own or lease properties which are totally or partially vacant but which could be used by compatible private persons, firms or corporations through lease arrangements or joint venture developments which would generate revenue.

Therefore, the Legislature finds that the provisions for residential, commercial, industrial, and cultural development of public property owned by counties constitutes a valid public purpose.

25515.1. In managing its real property acquired prior to January 1, 1984, a county may: (a) lease any of its real property to any person, partnership, corporation, or governmental entity as the governing body may select for purposes of cultural, residential, commercial, or industrial use or development, for a term not to exceed 99 years, subject to periodic review by the county, upon such terms and conditions as the board of supervisors may determine; (b) participate as a principal party in the development of cultural, residential, commercial, or industrial uses of development thereon as a public works project; (c) contract for the management, marketing, operation, or leasing of its real property for purposes of cultural, residential, commercial, or industrial use or development.

Prior to entering into any such agreement the board of supervisors shall determine that the lease, development, or other contract will result in economic benefits to the county. If the proposed agreement is a lease, the board of supervisors shall also determine (a) that the public benefit of the proposed lease agreement is expected to be greater than the public benefit which would result from the sale of the property, and (b) that a reasonable expectation exists that future public need justifies retention of the fee ownership of the property. If the property to be used or developed is adjacent to, or a portion of, real property which is, or will be, used for other governmental activities, the board of supervisors shall also determine that the agreement will not interfere with the use or development of the remaining public property.

25515.2. (a) Any lease, development, or contract agreement entered into pursuant to this article shall be authorized by an ordinance adopted by the board of supervisors. The ordinance shall be subject to referendum in the manner prescribed by law for ordinances of counties.

(b) Prior to adopting an ordinance authorizing a lease, development, or contract agreement the board of supervisors shall hold a public hearing. Notice of the time and place of the hearing shall be published pursuant to Section 6066 in one or more newspapers of general circulation within the county and shall be mailed to any person requesting special notice, to any present tenant of the public property, and to all owners of land adjoining the property.

(c) Any lease, development, or contract agreement shall be awarded after competitive bidding in the manner determined by the board of supervisors, or, if approved by a four-fifths vote of the board of supervisors, after a request for proposals.

(d) Any lease, development, or contract agreement awarded pursuant to competitive bidding shall be determined by the board of supervisors to meet all of the following criteria:

(1) Offers the greatest economic return to the county.

(2) Meets the residential, commercial, industrial, or cultural development needs of the county.

(e) Notice inviting the bids shall be published in the same manner as set forth in subdivision (g).

(f) For the purpose of receiving proposals, the board of supervisors shall, in a regular open meeting, adopt a resolution declaring its intention to consider the proposals. The resolution shall identify the site, shall specify whether the site is intended to be used for residential, commercial, industrial or cultural development or both, and shall fix a time not less than 60 days thereafter for a public meeting of the board of supervisors to be held at its regular place of meeting, at which meeting the board of supervisors shall receive all plans or proposals submitted.

(g) Notice of adoption of the resolution and the time and place of holding the meeting shall be given by publishing the resolution at least once a week for three weeks in a newspaper of general circulation published in the county in which the property is located. In addition, the board of supervisors may authorize the purchase of advertising space and may advertise the proposed transaction in such newspapers, magazines, and other periodicals as, in its judgment, will publicize the proposed transaction to those most likely to submit a proposal or bid.

(h) At the time and place fixed in the resolution the board of supervisors shall meet and open the bids or receive the plans and proposal. The plan or proposal as submitted or as revised by the board of supervisors shall be incorporated into the lease, development, or contract agreement. The board of supervisors may reject any and all bids or plans and proposals submitted.

25515.3. The procedure prescribed by this article may be used by a county notwithstanding any other provision of law and without complying with any other provisions in conflict therewith. This procedure, which shall be an alternative to any other procedure provided by law, shall be applicable to public real property

regardless of the manner in which the real property was acquired, the purposes for which the real property was acquired, or the uses, if any, previously made of the property.

25515.4. The provisions of this article shall not apply to tide and submerged lands granted in trust by the Legislature to a city, county, or a city and county.

25515.5. Nothing in this article shall amend, alter, or modify the duties of a county to comply with the provisions of a community redevelopment plan or an agreement with a community redevelopment agency with respect to property owned by a county within the boundaries of a community redevelopment project.

SEC. 3. Section 25536.7 of the Government Code is amended to read:

25536.7. Whenever real property has been operated by a county as an art institute, the county board of supervisors, in addition to its other powers, may, without complying with the other provisions of this article, enter into an operating lease or management contract with a nonprofit corporation or association or with the governing board of a public or private school, college or university, or school or college district, for the management, operation, or maintenance of such property as a post secondary school of the arts. Any such lease or contract shall not exceed a term of 99 years and may contain such other terms and conditions as may be agreed upon, including the right of the lessee or contractor to use fixtures and personal property situated on the realty at the date of execution of such lease or contract and necessary for the operation of the realty.

CHAPTER 1137

An act to amend Section 22791 of the Government Code, relating to the Public Employees' Medical and Hospital Care Act.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. It is the intent of the Legislature in adding subdivision (e) to Section 22791 of the Government Code concerning the Public Employees' Medical and Hospital Care Act, to encourage the investigation into the feasibility of health care cost containment and cost reduction incentive programs. Any documented savings resulting from such programs shall be divided between the employer and the participants of the plans.

SEC. 2. Section 22791 of the Government Code is amended to read:

22791. The basic health benefit plans which may be approved by the board shall include the following types:

(a) One or more statewide service benefit plans under which payment is made by a carrier under contracts with physicians, hospitals, or other providers of health services rendered to employees or annuitants or family members, or under which, under certain conditions, payment is made by a carrier to the employee or annuitant or family member.

(b) One or more statewide indemnity benefit plans under which a carrier agrees to pay certain sums of money, not in excess of actual expenses incurred, for health services.

(c) Comprehensive group-practice prepayment plans which offer benefits, in whole or in substantial part, on a prepaid basis, with professional services thereunder provided by physicians practicing as a group in a common center or centers. Such a group shall include physicians representing at least three major medical specialities who receive all or a substantial part of their professional income from the prepaid funds.

(d) Individual practice prepayment plans which offer health services in whole or in part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under such conditions as may be prescribed by the board, to accept the payments provided by the plans as full payment for covered services rendered by them.

(e) Employee cost containment and cost reduction incentive programs which involve the employee, the annuitant, and family members, as active participants, along with the plan carrier and the plan provider, in a joint effort toward containing and reducing the cost of providing medical and hospital health care services to public employees. In developing such plans the board, in cooperation with the Department of Personnel Administration, may request proposals from carriers and certified public employee representatives.

The board shall report to the Legislature annually, on November 1, relative to the success or failure of any approved plans.

Irrespective of any other provision of law, the sponsors of a plan approved under this subsection may reinsure the operation of such plan with an admitted insurer authorized to write disability insurance, provided that the premium for such insurance shall include the entire prepayment fee.

CHAPTER 1138

An act to amend Section 65907 of, and to add Section 65009 to, the Government Code, relating to planning and zoning.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 65009 is added to the Government Code, to read:

65009. (a) (1) The Legislature finds and declares that there currently is a housing crisis in California and it is essential to reduce delays and restraints upon expeditiously completing housing projects.

(2) The Legislature further finds and declares that a legal action challenging a decision of a city, county, or city and county has a chilling effect on the confidence with which property owners and local governments can proceed with housing projects. Legal actions filed to attack, review, set aside, void, or annul a decision of a city, county, or city and county pursuant to this division can prevent the completion of needed housing projects even though the housing projects have received required governmental approvals.

(3) The purpose of this section is to provide certainty for property owners and local governments regarding decisions made pursuant to this division.

(b) Except as provided in subdivision (c), any action or proceeding shall not be maintained in any of the following cases by any person unless the action or proceeding is commenced and service is made on the legislative body within 120 days after the legislative body's decision:

(1) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a general or specific plan. This paragraph does not apply where an action is brought based upon the complete absence of a general plan or a mandatory element thereof, but does apply to an action attacking a general plan or mandatory element thereof on the basis that it is inadequate.

(2) To attack, review, set aside, void, or annul the decision of a legislative body to adopt or amend a zoning ordinance.

(3) To determine the reasonableness, legality, or validity of any decision to adopt or amend any regulation attached to a specific plan.

(4) Concerning any of the proceedings, acts, or determinations taken, done, or made prior to any of the decisions listed in paragraphs (1), (2), and (3).

(c) An action or proceeding shall be commenced and the legislative body served within two years after the accrual of the cause of action as provided in this subdivision, if the action or proceeding meets both of the following requirements:

(1) It is brought in support of the development of housing projects which meet the requirements for housing for persons and families with low or moderate incomes set forth in Section 65915.

(2) It is brought with respect to actions taken pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3 of this division, pursuant to Section 65589.5, 65863.6, 65915, or 66474.2 or pursuant to Chapter 4.2 (commencing with Section 65913).

A cause of action brought pursuant to this subdivision shall not be

maintained until 60 days have expired following notice to the city or county clerk by the party bringing the cause of action, or his or her representative, specifying the deficiencies of the general plan, specific plan, or zoning ordinance A cause of action brought pursuant to this subdivision shall accrue 60 days after notice is filed or the legislative body takes a final action in response to the notice, whichever occurs first. A notice or cause of action brought by one party pursuant to this subdivision shall not bar filing of a notice and initiation of a cause of action by any other party.

(d) Upon the expiration of the time limits provided for in this section, all persons are barred from any further action or proceeding.

(e) Notwithstanding Section 65700, this section shall apply to charter cities.

(f) Except as provided in subdivision (c), this section shall not affect any law prescribing or authorizing a shorter period of limitation than that specified herein.

(g) This section shall be applicable to those decisions of the legislative body of a city, county, or city and county made pursuant to this division on or after January 1, 1984.

SEC. 2. Section 65907 of the Government Code is amended to read:

65907. (a) Except as otherwise provided by ordinance, any action or proceeding to attack, review, set aside, void, or annul any decision of matters listed in Sections 65901 and 65903, or concerning any of the proceedings, acts, or determinations taken, done, or made prior to such decision, or to determine the reasonableness, legality, or validity of any condition attached thereto, shall not be maintained by any person unless the action or proceeding is commenced within 90 days and the legislative body is served within 120 days after the date of the decision. Thereafter, all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of that decision or of these proceedings, acts, or determinations. All actions brought pursuant to this section shall be given preference over all other civil matters before the court, except probate, eminent domain, and forcible entry and unlawful detainer proceedings.

(b) Notwithstanding Section 65803, this section shall apply to charter cities.

(c) The amendments to subdivision (a) shall apply to decisions made pursuant to this division on or after January 1, 1984.

CHAPTER 1139

An act to amend Section 626.10 of the Penal Code, relating to schools.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 626.10 of the Penal Code is amended to read:

626.10. (a) Any person, except 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 this state, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his duties, who brings or possesses any dirk, dagger, knife having a blade longer than 3½ inches, folding knife with a blade that locks into place, or razor with an unguarded blade upon the grounds of, or within, any public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, is guilty of a misdemeanor.

(b) Any person, except 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 this state, any person summoned by any such officer to assist in making arrests or preserving the peace while he is actually engaged in assisting any such officer, or a member of the military forces of this state or the United States who is engaged in the performance of his duties, who brings or possesses any dirk, dagger, or knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any state university, state college, or community college is guilty of a misdemeanor.

(c) Subdivisions (a) and (b) shall not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, or any state university, state college, or community college at the direction of a certificated or classified employee of the school for use in a school-sponsored activity or class.

(d) Subdivisions (a) and (b) shall not apply to any person who brings or possesses a knife having a blade longer than 3½ inches or razor with an unguarded blade upon the grounds of, or within, a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, or any state university, state college, or community college for a lawful purpose within the scope of his employment.

(e) Subdivision (b) shall not apply to any person who brings or possesses a knife having a fixed blade longer than 3½ inches upon the grounds of, or within, any state university, state college, or

community college, for lawful use in or around a residence or residential facility located upon such grounds or for lawful use in food preparation or consumption.

(f) Any certificated or classified employee of a public school providing instruction in kindergarten or any of grades 1 through 12, inclusive, may seize any of the weapons described in subdivision (a), and any certificated or classified employee of any state university, state college, or community college may seize any of the weapons described in subdivision (b) from the possession of any person upon the grounds of, or within, the school if he knows or has reasonable cause to know the person is prohibited from bringing or possessing the weapon upon the grounds of, or within, the school.

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 1140

An act to add Section 987.881 to the Military and Veterans Code, relating to veterans' farm and home purchase.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 987.881 is added to the Military and Veterans Code, to read:

987.881. The insurance company or companies may provide life and disability insurance pursuant to Section 987.88 by one or more separate accounts.

CHAPTER 1141

An act to amend Section 4953 of the Public Resources Code, relating to conservation.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 4953 of the Public Resources Code is amended to read:

4953. The department shall utilize inmates and wards assigned to conservation camps in performing fire prevention, fire control, and other work of the department. At times it deems proper and on terms it deems wise, the department may enter into contracts or cooperative agreements with any public agency, local, state, or federal, for the performance of other conservation projects which are appropriate for those public agencies under policies which shall be established by the Prison Industry Authority. The charge for the service shall be determined by the director. All these contracts are subject to the approval of the director and the Director of General Services.

CHAPTER 1142

An act to amend Sections 53066 and 53066.1 of the Government Code, and to add Section 44009 to the revenue and Taxation Code, relating to community antenna television.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 53066 of the Government Code is amended to read:

53066. Any city or county or city and county in the State of California may, pursuant to such provisions as may be prescribed by its governing body, authorize by franchise or license the construction of a community antenna television system. In connection therewith, the governing body may prescribe such rules and regulations as it deems advisable to protect the individual subscribers to the services of such community antenna television system. The award of the franchise or license may be made on the basis of quality of service, rates to the subscriber, income to the city, county or city and county, experience and financial responsibility of the applicant plus any other consideration that will safeguard the local public interest, rather than a cash auction bid. The maximum franchise fee for any franchise or license hereafter awarded pursuant to this section or pursuant to any ordinance adopted under authority of this section by any city or county or city and county shall be 5 percent of the grantee's gross receipts from its operations within such city or county or city and county. Intrastate telecommunications services subject to taxation under Part 22 (commencing with Section 44000) of Division 2 of the Revenue and Taxation Code shall not be included, prior to

July 1, 1988, in the gross receipts subject to any cable television franchise fee. Any cable television franchise or license awarded by a city or county or city and county pursuant to this section may authorize the grantee thereof to place wires, conduits and appurtenances for the community antenna television system along or across such public streets, highways, alleys, public properties, or public easements of said city or county or city and county. Public easements, as used in this section, shall include but shall not be limited to any easement created by dedication to the city or county or city and county for public utility purposes or any other purpose whatsoever.

SEC. 2. Section 53066.1 of the Government Code is amended to read:

53066.1. (a) Notwithstanding the provisions of Section 53066, any cable television system which meets all of the following criteria:

(1) Has a capacity of 20 or more video channels,

(2) Receives television signals from a satellite-earth receiving station,

(3) (A) Has a subscriber penetration ratio of less than 70 percent in the entire franchise area which is located in a county or portion of a county which has available three significantly viewed television stations, or two significantly viewed television stations and an educational television station; or (B) has a subscriber penetration ratio of 70 percent or greater in a franchise area which is located in a county or a portion of a county which has available five significantly viewed television stations, or four significantly viewed television stations and an educational television station, and

(4) Complies, upon the filing of a statement pursuant to subdivision (d), with the community services channel requirements set forth in subdivision (f),

shall, upon written notice to the franchisor, and upon publication of that notice in a newspaper of general circulation within the cable television system's franchise area, be exempt from control by that franchisor or any other authority as to rates, charges, and rate structures, provided that such notice may not be given prior to the expiration of two years following the completion and activation of 80 percent of the plant miles required to be constructed by the franchisee pursuant to the original terms of its franchise.

(b) Notwithstanding the provisions of Section 53066, any cable television system which is unable to meet all the requirements of subdivision (a), whose franchise area is located in a county or portion of a county which has available three significantly viewed television stations, or two significantly viewed television stations and an educational television station, and:

(1) Has a subscriber penetration ratio of 70 percent or more in its franchise area and meets all requirements of subdivision (a), except clause (B) of paragraph (3), or

(2) Has a capacity of at least 12 video channels in a franchise

area with fewer than 3,500 subscribers in a community of less than 20,000 in population, and otherwise meets the requirements of paragraph (4) of subdivision (a),

may, upon written notice to the franchisor, and upon publication of that notice in a newspaper of general circulation within the cable television system's franchise area, thereafter adjust those rates, charges, and rate structures previously subject to control, at any time, without the approval of the franchisor or other authority, by an amount not to exceed 75 percent of the percentage increase in the Consumer Price Index for the period since the date of the last previous adjustment, or December 31, 1975, if there have been no adjustments since December 31, 1975.

(c) Notwithstanding the provisions of Section 53066, a cable television system which satisfies the requirements of subdivision (b), and which, prior to January 1, 1980, had a capacity of less than 20 video channels, and subsequently rebuilds its system to a capacity of 20 or more video channels, may initially raise those rates, charges, and rate structures, previously subject to control, without the approval of the franchisor or other authority, to a level not to exceed the statewide average rates for those cable television systems having a capacity of 20 or more video channels, and subsequently thereafter adjust those rates, charges, and rate structures at any time without the approval of the franchisor or other authority, by an amount not to exceed 75 percent of the percentage increase in the Consumer Price Index for the period since the date of the last previous adjustment. The statewide average rates for those cable television systems in California having a capacity of 20 or more video channels shall be determined by the Department of Consumer Affairs on the basis of information as to the respective rates, charges, and rate structures of the cable television systems submitted to the Department of Consumer Affairs by March 1 of each year that this section is in effect. The average rates shall be determined by multiplying each applicable cable television system's rates by the number of its subscribers, adding together that figure for all applicable cable television systems, and dividing that total by the total number of applicable subscribers. The Department of Consumer Affairs shall determine the statewide average rates by July 1 of each year that this section is in effect. If a rate adjustment pursuant to this subdivision occurs one year or more after the date used by the Department of Consumer Affairs for its most recent determination of statewide average rates, the adjustment may include an additional rate increase equal to the percentage increase in the Consumer Price Index occurring since the date of the department's most recent determination of statewide average rates.

(d) Within 15 working days of the issuance of the written notice to the franchisor under subdivision (a) or (b), the cable television system shall submit to the franchisor a statement, certified pursuant to Section 2015.5 of the Code of Civil Procedure, setting forth each of the following:

(1) The name under which the cable television system is doing business.

(2) The mailing address and telephone number of the system.

(3) The video channel capacity of the system.

(4) The subscriber penetration ratio of the system computed within 60 days prior to issuance of the notice to the franchisor.

(5) The method by which the system receives television signals from a satellite-to-earth receiving station.

(6) An identification of the significantly viewed television stations within the county in which the system operates.

(7) The facts demonstrating timely compliance with the community service channel requirement set forth in subdivision (f).

(e) Neither party to a franchise agreement or prospective franchise agreement, or any renewal thereof, shall request, demand, propose, or agree to any provision which by its terms or effect waives any right to which either party is entitled under this section. Any such provision shall be void. This provision is not intended to either validate or invalidate any action by a party to a franchise agreement, prospective franchise agreement or any renewal thereof entered into prior to January 1, 1983, which would otherwise be prohibited by its terms.

(f) A cable television system shall be deemed to be offering a community service channel program if the system does all of the following:

(1) (A) Provides, for those systems which have a capacity of not more than 20 video channels, one channel or its equivalent for use by local members of the public and government entities; or (B) provides for those systems which have a capacity of more than 20 video channels, a second such channel if the first channel is in use during 80 percent of the weekdays for 80 percent of the time during any consecutive 13-hour period for 10 consecutive weeks; or (C) provides, if such system has a capacity of more than 30 video channels, a third such composite channel if the second channel is in use during 80 percent of the weekdays for 80 percent of the time during any consecutive 13-hour period for 10 consecutive weeks.

Upon written request of the franchisor, for those systems which have a capacity of 20 or more channels, the first such channel shall, if possible, consistent with the requirements of federal law, and reserving three additional channels for programming by the system, be provided as part of the basic service of the system.

(2) Participates by payment of fifty cents ($0.50) per subscriber per year to a nonprofit foundation formed by cable operators with a board of directors which shall include cable operators and a group of directors representing both local nongovernmental user groups and governmental user groups representative of the cultural, geographic, sexual, racial and ethnic diversity of the state. The purposes of the foundation shall include the encouragement of and the provision of: (A) instruction and training for individuals, groups, entities, and agencies interested in using community service

channels; (B) the nondiscriminatory employment and promotion of other opportunities for minorities and women in the cable television industry; and (C) public information on the effective use of cable television community service channels. Such foundation shall have grant-making authority.

(3) In the event the local franchising authority has established or designated an entity whose purpose is substantially similar to the foundation identified in paragraph (2), then, in lieu of the requirement of paragraph (2), the cable television system may elect to provide forty cents ($0.40) per subscriber per year to that local entity and ten cents ($0.10) per subscriber per year to the statewide foundation.

(4) Provides, if requested, to individuals, groups and entities using community service channels, technical advice by local program staff and reasonable access to local studio and earth station receiving facilities, if such facilities and staff are part of the local system.

(5) Notifies secondary schools and community colleges located within the franchise area which furnish training in the uses of community service channels of the availability of the system's community service channels.

(6) Has available for use without charge tape playback facilities for entrance into the system.

(7) Provides, by display information on the community service channels, written notice to subscribers, or published notice, information to potential users of the opportunity to have access to community service channels.

(8) Provides, upon election to deregulate and thereafter, as requested, the name, address, and telephone number of the system, the name of the system manager, and the status and utilization of the community service channels, to the foundation for community service channels.

(g) (1) If, at the time of a cable television system's election under subdivision (a), (b), or (c), the franchisor contends that the system is not in compliance with the capacity, satellite-earth receiving station, or penetration ratio requirements thereof, or is not in substantial compliance with the material provisions of its franchise, excluding the performance of any term or condition which the system is or has been excused or prevented from performing or which is, in whole or in part, in the control of a third party, or which is, in whole or in part, invalid, the franchisor may, within 90 days of receipt of the written notice of the system's election, notify the system in writing of the alleged noncompliance, setting forth in detail the grounds therefor. Within 90 days of receipt of the notice from the franchisor, the system shall correct the alleged noncompliance and so notify the franchisor in writing, or shall respond in writing to the allegations set forth in the notice. The franchisor shall have 30 days from the receipt of the system's response within which to renew in writing all or part of its earlier allegations and shall notice a hearing for the purpose of reviewing

the system's alleged noncompliance. The hearing shall be commenced not less than 20 nor more than 30 days from the end of the 30-day period, and shall be concluded within 30 days of its commencement. If the franchisor does not provide such written notice within the 30-day period, it shall be barred, in any proceedings to determine the right to deregulate under this section, from alleging that the system has failed to correct any of the items of noncompliance alleged in the original notice given by the franchisor to the system.

(2) If, as a result of the hearing pursuant to paragraph (1), the franchisor determines that the cable television system was not in compliance at the time of its election and has failed to correct such noncompliance and that no good cause exists for the failure to so comply, the franchisor may file an action in a court of competent jurisdiction to set aside the election. Such action shall be filed within 120 days of the conclusion of the hearing or is forever barred. All factual and legal issues in any such action shall be determined de novo in accordance with the rules of civil procedure and evidence applicable to breach of contract actions between private parties. If it is judicially determined that the system was not in compliance and did not timely correct such noncompliance and that no good cause exists for the failure to so comply, the remedy therefore shall be a refund in the form of a monthly credit to the subscribers. The amount of the refund shall bear a reasonable relation to the nature and extent of the system's noncompliance, but in no event shall be greater than any increase in rates obtained under this section. The maximum number of monthly credits to subscribers shall be limited to the number of months during which the system was in noncompliance. At the franchisor's option, this remedy may be utilized in lieu of any remedies provided for in the franchise. A judicial determination setting aside a system's election hereunder shall not preclude a subsequent election by the system when it has cured its noncompliance. The court shall reserve jurisdiction to determine whether the system has so complied and the date of such compliance.

(3) The alleged breaches of the material provisions of the franchise which may be considered in determining eligibility to deregulate shall be limited to those which (A) the franchisor has notified the franchisee of in writing within the one-year period immediately preceding the date of the election, (B) the franchisor has orally notified the franchisee of during the six months immediately preceding the date of the election, or (C) occurred within the 90 days immediately preceding the election to deregulate, if discovered within 20 days following the election to deregulate.

(h) (1) If at any time after a cable television system's election under subdivision (a), (b), or (c), the franchisor contends that the system is not in compliance with subdivision (f), the franchisor may notify the system in writing of the alleged noncompliance, setting forth in detail the grounds therefor. Within 90 days of receipt of the

notice from the franchisor, the system shall correct the alleged noncompliance and so notify the franchisor in writing or shall respond in writing to the allegations set forth in the notice. The franchisor shall have 30 days from the receipt of the system's response within which to renew in writing all or part of its earlier allegations and shall notice a hearing for the purpose of reviewing the system's alleged noncompliance. The hearing shall be commenced not less than 20 nor more than 30 days from the end of the 30-day period, and shall be concluded within 30 days of its commencement. If the franchisor does not provide such written notice within the 30-day period, it shall be barred, in any proceedings to determine the system's compliance with subdivision (f), from alleging that the system has failed to correct any of the items of noncompliance alleged in the original notice given by the franchisor to the system.

(2) If, as a result of the hearing pursuant to paragraph (1), the franchisor determines that the cable television system was not in compliance at the time of the franchisor's original notice pursuant to paragraph (1) and has failed to correct such noncompliance and that no good cause exists for the failure to so comply, the franchisor's sole remedy shall be an action in a court of competent jurisdiction to set aside any increase in rates obtained under this section. Such action shall be filed within 120 days of the conclusion of the hearing or is forever barred. All factual and legal issues in any such action shall be determined de novo in accordance with the rules of civil procedure and evidence applicable to breach of contract actions between private parties. If it is judicially determined that the system was not in compliance and did not timely correct such noncompliance and that no good cause exists for the failure to so comply, the sole remedy therefore shall be a refund in the form of a monthly credit to the subscribers. The amount of the refund shall bear a reasonable relation to the nature and extent of the system's noncompliance, but in no event shall it be greater than any increase in rates obtained under this section for the number of months which elapsed from the date of the franchisor's original notice pursuant to paragraph (1) to the date the noncompliance was corrected. The maximum number of monthly credits to subscribers shall be limited to that same number of months. In no event, however, shall the refund reduce the cable system's rates to a confiscatory level below that which will enable the cable system to earn a reasonable rate of return on its investment.

(i) The franchisee may utilize any community service channel which is not used for community service programming so long as community service programming is given scheduling priority.

(j) The franchisor may elect to act as public trustee of the community service channel, to ensure the use of such channel or channels as community service channels.

(k) Neither the franchisor nor the franchisee shall be liable for acts arising from the use of such channel or channels by persons other

than the franchisee. The franchisee shall establish regulations governing the use of such channels which provide uniform and nondiscriminatory standards, ensure adequate opportunity for participation by local nongovernmental users and incorporate restrictions on libelous or slanderous or illegal programs.

(*l*) No cable television system which has made an election under subdivision (a), (b), or (c) shall discriminate as to its rates, charges, and rate structures against any portion of a franchise area because that portion of the franchise area has poor broadcast television signal reception.

(m) For purposes of this section, the following definitions shall apply:

(1) "Basic service" means the lowest level of service offered by the system to individual household subscribers.

(2) "Cable television system" means a community antenna television system, under common ownership and control, serving a franchise area or two or more contiguous or electronically connected franchise areas.

(3) "Capacity" means the number of video channels capable of being carried by a cable television system, including optional services, irrespective of programming or lack thereof, or authority to carry any programming.

(4) "Consumer Price Index" means the most recently issued Consumer Price Index published by the United States Bureau of Labor Statistics for the area in which the cable television system is located or the nearest area for which such index is published.

(5) "Franchise" means any franchise or license granted pursuant to Section 53066, or any other authority, for the construction or operation of a cable television system.

(6) "Franchisor" means any city, county, or city and county, including any chartered city, county, or city and county, granting a franchise.

(7) "Satellite-earth receiving station" means any structure or device utilized to receive signals from a satellite.

(8) "Significantly viewed television station" means each station which: (A) is designated as such for the area by the Federal Communications Commission in its 1972 listing or any future such listings; or (B) satisfies the Federal Communications Commission requirements as to significantly viewed signals for the area as contained in the most recent Arbitron study; or (C) has sufficient signal strength in the geographic area served by the cable television system to meet the grade B contour testing procedures outlined in Section 73.683, et seq., of Title 47 of the Code of Federal Regulations (particularly subsection (c) of Section 73.686, "collection of field strength data to determine television service in specific communities") from the rules and regulations of the Federal Communications Commission; except that the test in clause (C) of this paragraph may be utilized only for deregulation pursuant to clause (B) of paragraph (3) of subdivision (a). In the event that the

cable television system utilized clause (A) or clause (B) of this paragraph for qualifying for deregulation pursuant to clause (B) of paragraph (3) of subdivision (a), the franchisor may require the system to submit the results of a test demonstrating that a minimum of five stations have sufficient signal strength to meet the requirements of clause (C). Such request by the franchisor shall be made within 30 days from receipt of the statement provided for in subdivision (d).

(9) "Subscriber penetration ratio" means the number of subscribing residences divided by the total number of residences having cable available. For the purposes of this definition, a "residence" is a single-family dwelling unit which is or would be billed directly by the cable television system on an individual subscriber basis.

(n) In the absence of like provisions in the franchise, if a franchisee elects deregulation pursuant to this section, the franchisor may institute the use of any of the following mechanisms:

(1) The legislative body or bodies having jurisdiction over the franchise area may establish procedures, by ordinance, providing for resolution of individual consumer complaints. Those procedures may include mediation procedures, arbitration procedures, procedures for escrowing the disputed portion of the individual consumer's monthly service payments during pendency of the dispute and prohibition of service disconnection to the complaining consumer during pendency of the dispute if the moneys are paid into such escrow accounts. The ordinance shall provide procedures for administrative hearings and appeals. The legislative body or bodies may appoint mediators, arbitrators, or other persons or bodies to resolve such disputes. The ordinance may contain a schedule of penalties for consumer complaints, but the penalty for an individual complaint shall not exceed two hundred dollars ($200). Prior to enacting such an ordinance, the legislative body or bodies shall give the franchisee 15 days or more written notice of the franchisor's intent to enact the ordinance, together with an outline of the intended provisions or a copy of the proposed ordinance. If requested by the franchisee, the ordinance shall provide for three-person arbitration boards, with one arbitrator chosen by the franchisor, one by the franchisee, and the third arbitrator chosen by the first two arbitrators.

(2) The legislative body may, by ordinance, provide a schedule of penalties for violations of the material franchise terms, not to exceed five hundred dollars ($500) for each occurrence or series of related occurrences. Prior to enacting such an ordinance, the legislative body or bodies shall give the franchisee 15 days or more written notice of the franchisor's intent to enact the ordinance, together with an outline of the intended provisions or a copy of the proposed ordinance. Those penalties may be levied if the franchisor gives written notice to the franchisee to correct the breach, and the franchisee fails to correct the problem within a reasonable period of

time after delivery of such notice. The franchisor may not levy such a penalty more than one year after the date it notifies the franchisee of the alleged franchise breach. The ordinance shall provide that if the franchisee objects to the penalty, in writing, to the franchisor, the franchisee and franchisor shall conduct arbitration in a manner mutually agreed upon, or in accordance with the rules of the American Arbitration Association. The decision of the arbitrator shall be final. The ordinance shall provide a limit on the time the franchisee has to object to a penalty, but the time limit may not be less than 60 days. The franchisor may require the franchisee to post a bond within 90 days of the franchisee's election to deregulate and require maintenance of the bond as a condition to continuing deregulation under this section The bond may not exceed ten thousand dollars ($10,000) for each 5,000 subscribers or fraction thereof in the franchise area, with a maximum limit of fifty thousand dollars ($50,000).

(3) The franchisor may require in the ordinance that the franchisee provide written notice to each subscriber at intervals of not more than one year, of the consumer protection sanctions and procedures enacted pursuant to paragraph (1). The telephone number and address of the franchisee and franchisor to whom complaints may be directed shall be included in such notice.

(o) The Director of Consumer Affairs may, pursuant to the director's authority under Section 321 of the Business and Professions Code, receive and act upon subscriber complaints regarding cable television service, and may initiate action thereon as authorized by that section.

(p) While the development and the regulation of cable television is a matter of statewide concern, the Legislature finds and directs that the exercise of the police power of the State of California concerning cable television should, except as otherwise directed by the Legislature, remain in the cities, counties, or cities and counties; and that the cable television companies and the cities, counties, or cities and counties should remain able, subject to the proper limits of that police power, to contract one with the other pursuant to the ordinary rules of, and subject to the ordinary remedies of, contract law; except that henceforth neither a cable television system nor a franchisor shall be entitled, with respect to any franchise agreement awarded or renewed on or after the effective date of amendments to this section enacted by the Statutes of 1982, to raise the defense of impairment of contract in any case where the due and proper exercise of police power, or the limits thereof, is at issue, and a provision to this effect shall be deemed to be incorporated in any such franchise agreements.

(q) This section, as amended by the Statutes of 1982, shall establish the state's preemption, under the terms and conditions prescribed herein, of the control and regulation of cable television subscriber rates, charges, and rate structures heretofore or hereinafter established by any franchisor pursuant to Section 53066, to the extent

that such control or regulation is inconsistent with this section.

(r) This section shall cease to be operative on January 1, 1991, unless on or before such date its operative date is extended by the Legislature; except that rates, charges, and rate structures in effect on January 1, 1991, shall not be subject to reduction by a franchisor having rate reduction authority.

SEC. 3. Section 44009 is added to the Revenue and Taxation Code, to read:

44009. The provisions of this part shall apply to any intrastate telecommunications service provided by a cable television system where the point of origin and the point of destination are located within this state, but shall not apply to any service provided by a cable television system which consists of transmissions from a cable television system to a subscriber or from a subscriber to a cable television system.

SEC. 4. Sections 1 and 3 of this act shall become operative only if Assembly Bill 1348 is enacted at the 1983–84 Regular Session of the Legislature and becomes effective on or before January 1, 1984, and adds Part 22 (commencing with Section 44000) to Division 2 of the Revenue and Taxation Code, and, in such case, Sections 1 and 3 of this act shall become operative January 1, 1984.

CHAPTER 1143

An act to add and repeal Section 739.2 of the Public Utilities Code, and to add and repeal Part 22 (commencing with Section 44000) of Division 2 of the Revenue and Taxation Code, relating to public utilities, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. The Legislature hereby finds and declares the following:

(a) Communication by telephone is a basic human need in modern society, and must be made available to all Californians at reasonable cost for basic minimum use.

(b) Potential rate structures for telephone service brought about by federal decisions, the American Telephone and Telegraph Company antitrust settlement, new technological developments, and the rising costs of providing telephone service may penalize consumers of basic local minimum telephone service.

(c) To ensure the availability of basic local minimum telephone service, and to encourage the equitable sharing of the costs of that service among all users of telecommunications services, the

Legislature has enacted this act.

SEC. 2. Section 739.2 is added to the Public Utilities Code, to read:

739.2. (a) The commission shall, on its own motion, institute an investigation for purposes of designing and implementing a program which will designate a class of universal telephone service necessary to meet minimum residential communications needs, including access to telephone service for emergency communications with public agencies and private medical services and for additionally maintaining necessary social contacts by the elderly, the handicapped, and the infirm. The commission shall take into account differentials in communication needs, costs of providing service caused by geographical differences in the locales of residences, personal income of subscribers, and other factors appropriate to designating the characteristics of a class of universal telephone service. On completion of its investigation, the commission shall issue its decision designating the characteristics of a class of universal telephone service and the rates and charges for that service, and eligibility criteria for that service.

(b) The universal service rates shall be not greater than 50 percent of the basic rate for measured service, exclusive of federally mandated access charges, available to the residential subscriber. In the event measured service is not available in a residential subscriber's service area, then the universal service rates shall be not greater than 50 percent of the rates for basic flat rate service, exclusive of federally mandated access charges, available to the universal service subscriber. The universal service rate shall not apply to any other service or charge except the basic rate.

(c) The commission shall require every telephone corporation providing local telephone service to file a schedule of rates and charges providing a class of universal telephone service. Every telephone corporation providing local telephone sevice shall accept applications for universal telephone service according to a procedure specified by the commission, and shall inform its subscribers how they may qualify for and obtain universal telephone service.

(d) Nothing in this section shall preclude the commission from changing any rate established pursuant to subdivision (a) either specifically or pursuant to any general restructuring of all telephone rates, charges, and classifications.

(e) The lifeline rates in effect on January 1, 1983, shall remain in effect until July 1, 1984, or upon action by the commission pursuant to subdivision (a) which may occur before July 1, 1984.

(f) A telephone universal service subscriber shall not be provided with more than one single party line in his or her principal place of residence. An applicant for universal telephone service may report only one address in this state as the principal place of residence. Individual members of a family maintaining together one principal place of residence and additional places of residence, which are not principal, are eligible for universal telephone service only at their

principal place of residence, and they shall not be provided with more than one single party line if any family member residing at the principal place of residence receives universal telephone service.

(g) As used in this section, "residential" means residential use and excludes industrial, commercial, and every other category of end use.

(h) The Universal Telephone Service Fund shall be created and administered pursuant to Part 22 (commencing with Section 44000) of Division 2 of the Revenue and Taxation Code.

(i) This section shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 3. Part 22 (commencing with Section 44000) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 22. CALIFORNIA UNIVERSAL TELEPHONE SERVICE ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

44000. This part shall become inoperative on July 1, 1988, and, as of January 1, 1989, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1989, deletes or extends the dates on which it becomes inoperative and is repealed.

44001. This part shall be known and may be cited as the " Moore Universal Telephone Service Act."

44002. Notwithstanding any other provision of law, persons subject to the jurisdiction of the commission need not obtain an authorization from the commission to comply with the provisions of this part.

44010. Except where the context otherwise requires, the definitions given in this chapter govern the construction of this part.

44011. "Person" includes an individual, firm, partnership, copartnership, joint venture, association, cooperative organization, fraternal organization, nonprofit organization, corporation, estate, trust, business or common law trust, receiver, assignee for the benefit of creditors, trustee or trustee in bankruptcy.

44012. "Board" means the State Board of Equalization.

44014. "Commission" means the Public Utilities Commission.

44015. "In this state" means within the exterior limits of the State of California and includes all territory within those limits owned by or ceded to the United States of America.

44016. "Service supplier" means any person supplying any of the following:

(1) InterLATA intrastate telecommunications services.

(2) IntraLATA intrastate telecommunications services if the commission, after public hearings, determines that such intraLATA intrastate telecommunications services shall be subject to the tax imposed under this part in accordance with the intent of the

Legislature as set forth in Section 1 of the act enacting this section at the 1983–84 Regular Session of the Legislature.

(3) Intrastate telecommunications services on a basis not defined by LATA boundaries.

44017. "Month" means a calendar month.

44018. "Service user" means any person using intrastate telecommunications services in this state.

44019. "LATA" means a local access and transport area as defined and approved by the United States District Court for the District of Columbia circuit in the case of the United States v. Western Electric Co., Inc., and American Telephone and Telegraph Co., CA 82-0192, April 20 and July 8, 1983, and in a Memorandum and Order of August 5, 1983.

44020. "IntraLATA" means within a single LATA.

44021. "InterLATA" means between one LATA and another.

44022. "Information" means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or other symbols which may be conveyed via telecommunications.

44023. "Telecommunications" means the transmissions, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received, by means of electromagnetic transmission, including microwave and satellite, with or without benefit of any closed transmission medium, including all instrumentalities, facilities, apparatus, and services (including the collection, storage, forwarding, switching, and delivery of that information) essential to the transmission.

44024. "Gross revenues" means all revenues billed by a service supplier for the provision of intrastate telecommunications services, including revenues derived from monthly service flat rate charges, message unit charges, toll charges, and intrastate wide area telephone service charges, and any other flat rate or usage charge, excluding all federal, state, and local taxes and all accounts which have been found to be worthless and written off for income tax purposes or, if the service supplier is not required to file income tax returns, written off in accordance with generally accepted accounting principles.

44025. "Intrastate telecommunication service" means any of the following:

(a) A telecommunication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication, where the point of origin and the point of destination are located within this state.

(b) A service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telecommunications to or from persons having telephone, data, or radiotelephone stations which are outside the exchange area in which the station provided with the service is located, where the

point of origin and the point of destination are located within this state.

(c) A service which entitles the subscriber, upon payment, to transfer or move information whether voice, data, digital, or video in nature where the point or points of origin and the point or points of destination of the service are located in different exchanges in this state.

CHAPTER 2. THE TAX

Article 1. Imposition of Tax

44030. A tax is hereby imposed on every service supplier in the state measured by the gross revenues received from intrastate telecommunications service provided on or after July 1, 1984.

44031. In the payment of the tax imposed by this part, a fractional part of a cent shall be disregarded unless it amounts to one-half or more, in which case it shall be increased to one cent ($0.01).

Article 2. Adjustment of Tax Rate

44040. (a) The commission shall determine annually, on or before May 1, a tax rate that it estimates will produce sufficient revenue to fund the Universal Telephone Service Fund requirements for the period from July 1 of the current calendar year to June 30 of the succeeding calendar year. The tax rate shall be determined by dividing the costs which the commission estimates for that 12-month period of universal telephone service requirements, less the available balance in the Universal Telephone Service Fund, by the commission's estimate of the gross revenues received by all service suppliers for provision of intrastate telecommunications services to which the tax will apply for the period of July 1 of the current calendar year to June 30 of the next succeeding calendar year.

(b) For purposes of this section, "universal telephone service requirements" includes, but is not limited to, the commission's estimates of the amounts specified in Section 44181.

44041. The commission shall make its determination of the tax rate and designate the service suppliers no later than May 1 of each year and shall notify the board of the new rate and the service suppliers. In no event shall the rate of tax exceed 4 percent of the gross revenues received by a service supplier.

44042. Immediately upon fixing the tax rate, the commission shall notify the board of the new tax rate and the service suppliers. The board shall notify every service supplier, by mail or other appropriate means, of the new tax rate. The commission, immediately upon fixing the tax rate and designating the service suppliers, shall also report to the Legislature the reasons for its determination of the new tax rate and its designation of service

suppliers, including all of the following:

(a) How it determined the characteristics of the class of universal telephone service and eligibility criteria for universal telephone service.

(b) How it determined service suppliers to be liable for the tax, and the identity of those service suppliers.

(c) An accounting of the administrative costs incurred by the commission and other state agencies in carrying out the provisions of this part.

(d) Any other related information as the Legislature may request.

44043. The commission shall determine whether any person holding a certificate of public convenience and necessity issued pursuant to Section 1001 of the Public Utilities Code to provide intrastate telecommunications services after July 1, 1984, is a service supplier and shall so notify the board upon issuance of the certificate. The board shall notify the service supplier of its liability for the tax and the prevailing tax rate.

Article 3. Registration

44045. Every service supplier in this state shall register with the board upon a form prescribed by the board and shall set forth the name under which it transacts, or intends to transact, business and any other information that the board may require.

CHAPTER 3. DETERMINATION OF TAX

Article 1. Due and Payable Dates

44051. The tax imposed by this part and the amounts required to be paid are due quarterly. On or before the last day of the second month following the preceding calendar quarter, or at any other time as determined by the board, each service supplier shall deliver to the office of the board a return in a form which the board shall prescribe, together with a remittance of the amount of the tax payable.

44052. The board for good cause may extend, not to exceed one month, the time for making any return or paying any amount required to be paid under this part. The extension may be granted at any time provided a request therefor is filed with the board within or prior to the period for which the extension may be granted.

44053. All amounts required to be paid to the state under this part shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California.

44054. The service supplier shall maintain records which may be necessary to determine the amount of gross revenue subject to the tax imposed under the provisions of this part. These records shall be maintained for a period of three years from the time the tax is due.

Article 2. Deficiency Determinations

44060. If the board is not satisfied with the return or returns of the tax or the amount of tax required to be paid upon the basis of the facts contained in the return or returns or upon the basis of any information within its possession or that may come into its possession, one or more deficiency determinations may be made of the amount payable for one or for more than one period.

44061. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the day specified pursuant to Section 44051 for which the amount or any portion thereof should have been returned until the date of payment.

44062. In making a determination the board may offset overpayments for another period or periods, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

44063. If any part of the deficiency for which a deficiency determination is made is due to negligence or intentional disregard of this part or authorized rules and regulations, a penalty of 10 percent of the amount of the determination shall be added thereto.

44064. If any part of the deficiency for which a deficiency determination is made is due to fraud or an intent to evade this part or authorized rules and regulations, a penalty of 25 percent of the amount of the determination shall be added thereto.

44065. The board shall give to the service supplier written notice of its determination. The notice shall be placed in a sealed envelope, with postage paid, addressed to the service supplier or service user at his or her address as it appears in the records of the board. The giving of notice shall be deemed complete at the time of the deposit of the notice in the United States post office or facility regularly maintained or provided by the United States Postal Service, without extension of time for any reason. In lieu of mailing, a notice may be served personally by delivering to the person to be served, and service shall be deemed complete at the time of delivery. Personal service to a corporation may be made by delivery of a notice to any person designated in the Code of Civil Procedure to be served for the corporation with summons and complaint in a civil action.

44066. Except in the case of fraud, intent to evade this part or authorized rules and regulations, or failure to make a return, every notice of a deficiency determination shall be mailed within three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined or within three years after the return is filed, whichever period expires later. In the case of failure to make a return, every notice of determination shall be mailed within eight years after the last day of the calendar month following the month for which the amount is proposed to be determined.

Article 3. Determinations if No Return Is Made

44070. If any person fails to make a return, the board shall make an estimate of the amount of the gross revenue received for services provided by the person in this state which are subject to the tax. The estimate shall be made for the period or periods in respect to which the person failed to make a return and shall be based upon any information which is in the board's possession or may come into its possession. Upon the basis of this estimate, the board shall compute and determine the amount required to be paid to the state, adding to that sum a penalty equal to 10 percent thereof. One or more determinations may be made for one or for more than one period.

44071. In making a determination, the board may offset overpayments for a period or periods, together with interest on the overpayments, against the underpayments for another period or periods, against penalty and against the interest on the underpayments.

44072. The amount of the determination, exclusive of penalties, shall bear interest at the adjusted annual rate established pursuant to Section 19269 from the day specified pursuant to Section 44051 for which the amount or any portion thereof should have been returned until the date of payment.

44073. If the failure of any person to file a return is due to fraud or an intent to evade this part or rules and regulations, a penalty of 25 percent of the amount required to be paid by the person, exclusive of penalties, shall be added thereto in addition to the penalty provided in Section 44070.

44074. Promptly after making its determination, the board shall give to the person written notice of the estimate, determination, and penalty. The notice shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 4. Redeterminations

44080. Any person against whom a determination is made under Article 2 (commencing with Section 44060) or Article 3 (commencing with Section 44070) may petition for a redetermination within 30 days after service upon the person of notice thereof. If a petition for redetermination is not filed within the 30-day period, the determination becomes final at the expiration of the period.

44081. Every petition for redetermination shall be in writing and shall state the specific grounds upon which the petition is founded. The petition may be amended to state additional grounds at any time prior to the date on which the board issues its order or decision upon the petition for redetermination.

44082. If a petition for redetermination is filed within the 30-day period, the board shall reconsider the determination and, if the

person has so requested in his or her petition, shall grant the person an oral hearing and shall give him or her 10 days' written notice of the time and place of the hearing. The board may continue the hearing from time to time as may be necessary.

44083. The board may decrease or increase the amount of the determination before it becomes final, but the amount may be increased only if a claim for the increase is asserted by the board at or before the hearing. Unless the penalty imposed by Section 44064 or 44070 applies to the amount of the determination as originally made or as increased, the claim for increase shall be asserted within eight years after the last day of the calendar month following the quarterly period for which the increase is asserted.

44084. The order or decision of the board upon a petition for redetermination becomes final 30 days after service upon the petitioner of notice thereof.

44085. All determinations made by the board under Article 3 (commencing with Section 44070) or this article are due and payable at the time they become final. If they are not paid when due and payable, a penalty of 10 percent of the amount of the determination, exclusive of interest and penalties, shall be added thereto.

44086. Any notice required by this article shall be served personally or by mail in the manner prescribed for service of notice of a deficiency determination.

Article 5. Interest and Penalties

44090. Any person who fails to pay any tax to the state or any amount of tax required to be paid to the state, except amounts of determinations made by the board under Article 3 (commencing with Section 44070) or Article 4 (commencing with Section 44080), within the time required shall pay a penalty of 10 percent of the amount of the tax due in addition to the tax due plus interest at the adjusted annual rate established pursuant to Section 19269 from the date on which the tax or the amount of tax required to be collected became due and payable to the state until the date of payment.

44091. If the board finds that a person's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the person's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the person may be relieved of the penalty provided by Sections 44070 and 44080.

Any person seeking to be relieved of the penalty shall file with the board a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

CHAPTER 4. OVERPAYMENTS AND REFUNDS

Article 1. Claim for Refund

44100. If the board determines that any amount, penalty, or interest has been paid more than once, the board shall set forth that fact in the records of the board and shall certify to the State Board of Control the amount collected in excess of the amount legally due and the person from whom it was collected. If approved by the State Board of Control, the excess amount collected or paid shall be credited by the board on any amounts then due and payable from the person from whom the excess amount was collected or by whom it was paid under this part, and the balance shall be refunded to the person, or his or her successors, administrators, or executors.

In the case of a determination by the board that an amount not exceeding five thousand dolars ($5,000) was not required to be paid under this part, the board without obtaining approval of the State Board of Control may credit the amount on any amounts then due and payable under this part from the person by whom the amount was paid and may refund the balance to the person or his or her successors, administrators, or executors.

44101. No refund shall be approved by the board after three years from the last day of the month following the close of the quarterly period for which the overpayment was made, or, with respect to determinations made under Article 3 (commencing with Section 44070) or Article 4 (commencing with Section 44080) of Chapter 3, after six months from the date the determinations become final, or after six months from the date of overpayment, whichever period expires later, unless a claim therefor is filed with the board within the period. No credit shall be approved by the board after the expiration of the period unless a claim for credit is filed with the board within the period.

44102. Every claim shall be in writing and shall state the specific grounds upon which the claim is founded.

44103. Failure to file a claim within the time prescribed in this article constitutes a waiver of any demand against the state on account of overpayment.

44104. Within 30 days after disallowing any claim in whole or in part, the board shall give notice of its action to the claimant in the manner prescribed for service of notice of deficiency determination.

44105. Interest shall be paid upon any overpayment of any amount of tax at the adjusted annual rate established pursuant to Section 19269 from the date the return is due following the quarterly period for which the overpayment was made. However, no refund or credit shall be made of any interest imposed upon the person making the overpayment with respect to the amount being refunded or credited.

The interest shall be paid as follows:

(a) In the case of a refund, to the last day of the calendar month following the date upon which the person making the overpayment, if he or she has not already filed a claim, is notified by the board that a claim may be filed or the date upon which the claim is approved by the board, whichever date is the earlier.

(b) In the case of a credit, to the same date as that to which interest is computed on the tax or amount against which the credit is applied.

44106. If the board determines that any overpayment has been made intentionally or by reason of carelessness, it shall not allow any interest thereon.

Article 2. Cancellations

44110. If any amount in excess of five thousand dollars ($5,000) has been determined to be inconsistent with this part either by the person filing the return or by the board, the board shall set forth that fact in its records and certify to the State Board of Control the amount determined to be in excess of the amount legally due and the person against whom the determination was made. If the State Board of Control approves, it shall authorize the cancellation of the amount upon the records of the board. If an amount not exceeding five thousand dollars ($5,000) has been illegally determined either by the person filing a return or by the board, the board without certifying this fact to the State Board of Control shall authorize the cancellation of the amount upon the records of the board.

Article 3. Suit for Refund

44120. No injunction, or writ of mandate, judgment of declaratory relief, or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the state or against any officer of the state to prevent or enjoin the collection, under this part, of any tax or any amount of tax required to be collected

44121. No suit or proceeding shall be maintained in any court for the recovery of any amount alleged to have been erroneously or illegally determined or collected unless a claim for refund or credit has been duly filed pursuant to Article 1 (commencing with Section 44100).

44122. Within 90 days after the mailing of the notice the board's action on a claim filed pursuant to Article 1 (commencing with Section 44100), the claimant may bring an action against the board on the grounds set forth in the claim in a court of competent jurisdiction in any city or city and county of this state in which the Attorney General has an office for the recovery of the whole or any part of the amount with respect to which the claim has been disallowed.

44123. If the board fails to mail notice of action on a claim within six months after the claim is filed, the claimant may, prior to the mailing of notice by the board of its action on the claim, consider the claim disallowed and bring an action against the board on the grounds set forth in the claim for the recovery of the whole or any part of the amount claimed as an overpayment.

44124. If judgment is rendered for the plaintiff, the amount of the

judgment shall first be credited on any tax due and payable from the plaintiff. The balance of the judgment shall be refunded to the plaintiff.

44125. In any judgment, interest shall be allowed at the adjusted annual rate established pursuant to Section 19269 upon the amount found to have been illegally collected from the date of payment of the amount to the date of allowance of credit on account of the judgment or to a date preceding the date of the refund warrant by not more than 30 days, the date to be determined by the board.

44126. A judgment shall not be rendered in favor of the plaintiff in any action brought against the board to recover any amount paid when the action is brought by or in the name of an assignee of the person paying the amount or by any person other than the person who paid the amount.

CHAPTER 5. COLLECTION OF TAX

Article 1. Suit for Tax

44130. At any time within 10 years after any tax or any amount of tax required to be collected becomes due and payable, and at any time after any amount determined under Article 2 (commencing with Section 44060), Article 3 (commencing with Section 44070) or Article 4 (commencing with Section 44080) of Chapter 3 becomes due and payable, the board may bring an action in the courts of this state, of any other state, or of the United States in the name of the people of California to collect the amount delinquent together with penalties.

44131. The Attorney General shall prosecute the action, and the provisions of the Code of Civil Procedure relating to service of summons, pleadings, proof, trials, and appeals shall be applicable to the proceedings.

44132. In the action, a writ of attachment may issue, and no affidavit previous to the issuing of the attachment is required.

44133. In the action, a certificate by the board showing the delinquency shall be prima facie evidence of the determination of the tax or the amount of tax, of the delinquency of the amounts set forth, and of the compliance by the board with all the provisions of this part in relation to the computation and determination of the amounts.

44134. In any action brought under this part, process may be served according to the Code of Civil Procedure and the Civil Code or may be served upon any agent or clerk in this state employed by a service supplier in a place of business maintained by the service supplier in this state. In the latter case, a copy of the process shall forthwith be sent by registered mail to the service supplier at its principal or home office.

Article 2. Notice to Withhold

44140. If any person is delinquent in the payment of the amount required to be paid by him or her or in the event a determination has been made against him or her which remains unpaid, the board may, not later than five years after the payment became delinquent, give notice thereof personally or by first-class mail to all persons, including any officer or department of the state or any political subdivision or agency of the state, having in their possession or under their control any credits or other personal property belonging to the delinquent, or person against whom a determination has been made which remains unpaid, or owing any debts to the delinquent or such person. In the case of any state officer, department or agency, the notice shall be given to the officer, department or agency prior to the time it presents the claim of the delinquent to the Controller.

44141. After receiving the notice, the person so notified shall neither transfer nor make any other disposition of the credits, other personal property, or debts in their possession or under their control at the time they receive the notice until the board consents to a transfer or disposition or until 60 days elapse after the receipt of the notice, whichever period expires the earlier.

44142. All persons so notified shall forthwith after receipt of the notice advise the board of all the credits, other personal property, or debts in their possession, under their control, or owed by them. If the notice seeks to prevent the transfer or other disposition of a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice to be effective shall state the amount, interest and penalty due from the person and shall be delivered or mailed to the branch or office of the bank at which the deposit is carried or at which the credits or personal property is held. Notwithstanding any other provision, with respect to a deposit in a bank or other credits or personal property in the possession or under the control of a bank, the notice shall only be effective with respect to an amount not in excess of two times the amount, interest, and penalty due from the person.

44143. If, during the effective period of the notice to withhold, any person so notified makes any transfer or disposition of the property or debts required to be withheld pursuant to this chapter, to the extent of the value of the property or the amount of the debts thus transferred or paid, he or she shall be liable to the state for any indebtedness due under this part from the person with respect to whose obligation the notice was given if, solely by reason of the transfer or disposition, the state is unable to recover the indebtedness of the person with respect to whose obligation the notice was given.

44144. The board may, by notice of levy, served personally or by first-class mail, require all persons, having in their possession, or under their control, any credits or other personal property belonging to a service supplier to withhold from such credits or other personal property the amount of any tax, interest, or penalties due from the

service supplier or other person, or the amount of any liability incurred by them under this part, and to transmit the amount withheld to the board at the times which it may designate.

In the case of a financial institution, to be effective, the notice shall state the amount due from the taxpayer and shall be delivered or mailed to the branch office of the financial institution where the credits or other property is held, unless another branch or office is designated by the financial institution to receive the notice.

Article 3. Tax Priority Lien

44150. The amounts required to be paid by any person under this part, together with interest and penalties, shall be satisfied first in any of the following cases:

(a) Whenever the person is insolvent.

(b) Whenever the person makes a voluntary assignment of his or her assets.

This section does not give the state a preference over any lien or security interest which was recorded or perfected prior to the time when the state records or files its lien as provided in Section 7171 of the Government Code.

The preference given to the state by this section shall be subordinate to the preferences given to claims for personal services by Sections 1204 and 1206 of the Code of Civil Procedure.

44151. (a) If any person fails to pay any amount imposed under this part at the time that it becomes due and payable, the amount thereof, including penalties and interest, together with any costs in addition thereto, shall thereupon be a perfected and enforceable state tax lien. Such a lien is subject to Chapter 14 (commencing with Section 7150) of Division 7 of Title 1 of the Government Code.

(b) For the purpose of this section, amounts are "due and payable" on the following dates.

(1) For amounts disclosed on a return received by the board before the date the return is delinquent, the date the return would have been delinquent.

(2) For amounts disclosed on a return filed on or after the date the return is delinquent, the date the return is received by the board.

(3) For all other amounts, the date the assessment is final.

Article 4. Warrant for Collection

44160. At any time within five years after any person is delinquent in the payment of any amount required to be paid under this part, the board or its authorized representative may issue a warrant for the collection of any amount required to be paid to the state under this part. The warrant shall be directed to any sheriff, marshal, or constable and shall have the same effect as a writ of execution. The warrant shall be levied and sale made pursuant to it in the same manner and with the same effect as a levy and a sale

pursuant to a writ of execution.

44161. The board shall pay the sheriff, marshal, or constable upon the completion of his or her services pursuant to a warrant, the same fees, commissions, and expenses for his or her services as are provided by law for similar services pursuant to a writ of execution. The board, and not the court, shall approve the fees for publication in a newspaper.

44162. The fees, commissions, and expenses are the obligation of the person required to pay any amount under this part and may be collected from the person by virtue of the warrant or in any other manner provided in this part for the collection of the tax.

CHAPTER 6. ADMINISTRATION

Article 1. Regulation, Records, and Reports

44170. The board shall enforce the provisions of this part, except for Chapter 1 (commencing with Section 44000), and may prescribe, adopt, and enforce rules and regulations relating to the administration and enforcement of this part. The board shall not prescribe, adopt, or enforce any rule or regulation which has the effect, directly or indirectly, of altering the terms and conditions of service of a service supplier serving the general public, other than the imposition of the tax.

44171. Every service supplier in this state shall keep records pertaining to the requirements of this part in the form which the board may require.

44172. Upon proper notification to the service supplier, the board or its authorized representative shall have the right to inspect and audit all records and returns of the service supplier at all reasonable times.

44173. The board shall have full access to records of the commission, and any political subdivision or public agency of this state that regulates, operates, or owns a public utility, which pertain to the furnishing of telecommunication services in this state.

Article 2. Disposition of Proceeds

44180. All amounts required to be paid to the state under this part shall be paid to the board in the form of remittances payable to the State Board of Equalization of the State of California. The board shall transmit the payments to the Treasurer to be deposited in the State Treasury to the credit of the Universal Telephone Service Fund, which is hereby created.

44181. Funds in the Universal Telephone Service Fund are hereby continuously appropriated solely for the following purposes, to be paid by the Controller:

(a) To pay refunds authorized by this part.

(b) To pay the board for the cost of the administration of this part.

(c) To pay the commission for its costs of carrying out its duties and responsibilities under this part.

(d) To pay the Controller for the Controller's cost in the administration of this part.

(e) To pay amounts submitted by telephone corporations pursuant to commission rules and to the procedures specified by the Controller. The commission shall certify to the Controller those amounts to be paid from the fund to telephone corporations for the provision of universal telephone service pursuant to this part.

44182. The commission shall pay the bills provided in subdivision (e) of Section 44181 only under the following conditions:

(a) The Universal Telephone Service Fund contains an amount sufficient to pay the bills.

(b) The amounts to be paid shall not exceed the amount authorized by the commission for the costs of universal telephone service.

(c) Each telephone corporation providing universal telephone service pursuant to this part shall file an annual public report with the commission, the board, and the Controller detailing its expenses incurred in providing universal telephone service pursuant to this part, including an accounting of the amounts requested from the Controller pursuant to subdivision (e) of Section 44181, and any other items requested by the commission. An independent certified public accountant shall examine this report and shall give notice of examination with the report. The commission and the board may audit the report.

44183. Utilizing funds from the Universal Telephone Service Fund, the Controller shall begin paying pursuant to Sections 44181 and 44182 in the 1984–85 fiscal year. on a quarterly basis, any bills which are submitted by telephone corporations providing universal telephone services by September 1, 1984, or any other date contained in a commission order, and which the commission has approved.

44183.5. Any moneys remaining in the fund after disbursement by the Controller, pursuant to Section 44181, shall remain with the fund and be considered by the commission in the calculation of the subsequent year's tax rate pursuant to Section 44040.

44184. Notwithstanding any other provision of this article, if there is not an amount sufficient to pay bills submitted to the Controller by telephone corporations for the provision of universal telephone service, the obligation of telephone corporations to provide universal telephone service pursuant to this part shall terminate, and the service under this part shall not again be required until an amount sufficient to pay such bills is available in the Universal Telephone Service Fund. The commission shall immediately notify the Legislature of any expected insufficiency in the fund to pay bills pursuant to this part, or of any actual insufficiency therefor, and propose to the Legislature a remedy for this expected or actual insufficiency. Nothing in this part shall preclude the commission from ordering the telephone corporations

to continue to provide universal telephone service provided the commission allows the companies to recover their cost.

Article 3. Notices

44190. A certificate by the board or an employee of the board stating that a notice required by this part was given by mailing or personal service shall be prima facie evidence in any administrative or judicial proceeding of the fact and regularity of the mailing of personal service in accordance with any requirement of this part for the giving of notice. Unless otherwise specifically required, any notice required by this part to be mailed or served may be given by mailing or personal service in the manner provided for giving notice of a deficiency determination.

SEC. 4. It is the intent of the Legislature that nothing in this act shall be construed as an indication of the Legislature's intent with regard to its approval or disapproval of any actions of the Public Utilities Commission hereafter regarding competitive intraLATA telecommunications services.

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.

SEC. 6. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1144

An act to amend Sections 3003, 3012, 3014, 3016, 3050.2, 3067, 11723, and 27000 of, and to add Sections 3050.4 and 3050.6 to, the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 3003 of the Vehicle Code is amended to read:

3003. Each appointive member of the board shall be appointed for a term of four years and shall hold office until the appointment and qualification of his successor or until one year has elapsed since the expiration of the time for which he or she was appointed, whichever occurs first.

The terms of the members of the board first appointed shall expire as follows: one public member and one new motor vehicle dealer

member, January 15, 1969; two public members and one new motor vehicle dealer member, January 15, 1970; two public members and two new motor vehicle dealer members, January 15, 1971. The terms shall thereupon expire in the same relative order.

Vacancies occurring shall be filled by appointment for the unexpired term.

The provisions of this section shall not apply to a dealer who deals exclusively in motorcycles.

SEC. 2. Section 3012 of the Vehicle Code is amended to read:

3012. Each member of the board shall receive a per diem of one hundred dollars ($100) for each day actually spent in the discharge of official duties, and he shall be reimbursed for his traveling and other expenses necessarily incurred in the performance of his duties, which per diem and reimbursement shall be wholly defrayed from funds that shall be provided in the annual budget of the department.

SEC. 3. Section 3014 of the Vehicle Code is amended to read:

3014. The department shall provide the board with the services, as secretary, of a qualified, trained person, who shall, subject to civil service requirements, devote as much time as may be necessary to discharge the functions of the board as herein provided and shall further provide the board with the necessary personnel, office space, equipment and supplies as in the opinion of the board may be necessary to administer this chapter. In addition, the board may appoint an assistant secretary, who shall be exempt from civil service.

SEC. 3.2. Section 3016 of the Vehicle Code is amended to read:

3016. New vehicle dealers and other licensees under the jurisdiction of the New Motor Vehicle Board shall be charged fees sufficient to fully fund the board's activities. The fees shall be deposited, and held separate from other moneys, in the Motor Vehicle Account in the State Transportation Fund, and shall not be transferred to the State Highway Account pursuant to Section 42273.

The fees shall be available, when appropriated, exclusively to fund the board's activities. If at the conclusion of any fiscal year the amount of fees collected exceeds the amount of expenditures for this purpose during the fiscal year, the surplus shall be carried over into the succeeding fiscal year.

SEC. 3.5. Section 3050.2 of the Vehicle Code is amended to read:

3050.2. (a) Obedience to subpoenas issued to compel attendance of witnesses, or the production of books, records, papers, and other documents at the proceeding or hearing, may be enforced by application to the superior court as set forth in Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Compliance with such discovery procedures as have been authorized pursuant to subdivision (b) of Section 3050.1 may be enforced by application to the secretary of the board. The secretary may, at the direction of the board, upon a showing of failure to comply with authorized discovery without a showing of good cause for such failure, dismiss the protest or suspend the proceedings

pending compliance. The secretary may, at the direction of the board, upon a failure to comply with authorized discovery without a showing of good cause for that failure, require payment of costs incurred by the board. Nothing in this section shall prohibit the secretary from making application to the superior court to enforce obedience to subpoenas or compliance with such other discovery procedures as have been authorized pursuant to subdivision (b) of Section 3050.1.

SEC. 4. Section 3050.4 is added to the Vehicle Code, to read:

3050.4. In any protest or petition before the board, the board, its secretary, or a hearing officer designated by the board or its secretary, may order a mandatory settlement conference. The failure of a party to appear, to be prepared, or to have authority to settle the matter may result in any or all of the following:

(a) The board, its secretary, or a hearing officer designated by the board or its secretary, may suspend all proceedings before the board in the matter until compliance.

(b) The board, its secretary, or a hearing officer designated by the board or its secretary, may dismiss the proceedings or any part thereof before the board with or without prejudice.

(c) The board, its secretary, or a hearing officer designated by the board or its secretary, may require all the board's costs to be paid by the party at fault.

(d) The board, its secretary, or a hearing officer designated by the board or its secretary, may deem that the party at fault has abandoned the matter.

SEC. 5. Section 3050.6 is added to the Vehicle Code, to read:

3050.6. The board or its secretary may, in the event of a granting of a continuance of a scheduled matter, assess costs of the board upon the party receiving the continuance.

SEC. 6. Section 3067 of the Vehicle Code is amended to read:

3067. The decision of the board shall be in writing and shall contain findings of fact and a determination of the issues presented. The decision shall sustain, conditionally sustain, overrule, or conditionally overrule the protest. Any conditions imposed by the board shall be for the purpose of assuring performance of binding contractual agreements between franchisees and franchisors or otherwise serving the purposes of this article. If the board fails to act within 30 days after such hearing, within 30 days after the board receives a proposed decision where the case is heard before a hearing officer alone, or within such period as may be necessitated by Section 11517 of the Government Code or as may be mutually agreed upon by the parties, then the proposed action shall be deemed to be approved. Copies of the decision shall be delivered to the parties personally or sent to them by registered mail, as well as to all individuals and groups, which have requested notification by the board of protests and decisions by the board. The decision shall be final upon its delivery or mailing and no reconsideration or rehearing shall be permitted.

SEC. 7. Section 11723 of the Vehicle Code is amended to read:

11723. The board may require that fees shall be paid to the department for the issuance or renewal of a license to do business as a new motor vehicle dealer, manufacturer, manufacturer branch, distributor, distributor branch, or representative. The fees shall be to reimburse the department for costs incurred in licensing those dealers, manufacturers, distributors, branches, and representatives and for related administrative costs incurred on behalf of the board.

This section and Section 11724 shall not apply to dealers, manufacturers, distributors, or representatives of vehicles not subject to registration under this code, except dealers, manufacturers, manufacturer branches, distributors, distributor branches, or representatives of off-highway motorcycles, as defined in Section 436.

SEC. 8. 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 that 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 on backing more than 36 inches and which is capable of emitting sound audible under normal conditions from a distance of not less than 100 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. 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 correct current requirements for backup alarms on garbage and refuse trucks that are presently unfeasible and to streamline the operations of the New Motor Vehicle Board without delay, it is necessary that this act go into immediate effect.

CHAPTER 1145

An act to add Section 1197.1 to the Labor Code, relating to labor.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 1197.1 is added to the Labor Code, to read:

1197.1. (a) Any employer or other person acting either individually or as an officer, agent, or employee of another person, who pays or causes to be paid to any employee a wage less than the minimum fixed by an order of the commission shall be subject to a civil penalty as follows:

(1) For any initial violation which is intentionally committed, fifty dollars ($50) for each underpaid employee for each pay period for which the employee is underpaid.

(2) For each subsequent violation for the same specific offense, one hundred dollars ($100) for each underpaid employee for each pay period for which the employee is underpaid regardless of whether the initial violation is intentionally committed.

(b) If, upon inspection or investigation, the Labor Commissioner determines that a person has paid or caused to be paid wages less than the minimum, the Labor Commissioner may issue a citation to the person in violation. The citation may be served personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. Each citation shall be in writing and shall describe the nature of the violation, including reference to the statutory provision alleged to have been violated.

(c) If a person desires to contest a citation or the proposed assessment of a civil penalty therefor, the person shall within 15 business days after service of the citation notify the office of the Labor Commissioner which appears on the citation of his or her request for an informal hearing. The Labor Commissioner or his or her deputy or agent shall, within 30 days, hold a hearing at the conclusion of which the citation or proposed assessment of a civil penalty shall be affirmed, modified, or dismissed. If the person receiving the citation does not request a hearing with the Labor Commissioner within the prescribed time, the proposed civil penalty shall be deemed a final order of the Labor Commissioner and shall not be subject to further administrative review. The Labor Commissioner's determination after the conclusion of the hearing shall be deemed the final order of the Labor Commissioner and shall not be subject to further administrative review.

A person to whom a citation has been issued shall, in lieu of contesting a citation pursuant to this section, transmit to the office of the Labor Commissioner designated on the citation the amount specified for the violation within 15 business days after issuance of

the citation.

The Labor Commissioner shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon or found to be due after a hearing. The Labor Commissioner may maintain an action in any court of competent jurisdiction to recover the amount of civil penalties found to be due.

(d) The civil penalties provided for in this section are in addition to any other penalty provided by law.

(e) This section shall not apply to any order of the commission relating to household occupations.

CHAPTER 1146

An act to add Section 14170.1 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 14170.1 is added to the Welfare and Institutions Code, to read:

14170.1. (a) Prior to the issuance to a provider of pharmaceutical services of any demand for payment pursuant to an audit or examination conducted under Sections 10722 and 14170, the amount of any underpayment to the provider for validly submitted claims or for valid claims which have inadvertently not been submitted shall be determined and credited toward the amount of any overpayment due to the department. This section shall apply to all audits and examinations conducted under Sections 10722 and 14170 relative to amounts paid during the audit period for services provided to Medi-Cal beneficiaries. No audit may be reopened to provide for underpayments in which a final decision has been reached pursuant to Section 14171 or in which a certificate has been filed pursuant to Section 14172.

(b) When a provider of pharmaceutical services asserts that a claim has been underpaid for purposes of receiving a credit against overpayments, as authorized by this section, the provider shall submit to the department information and documentation sufficient to resolve any dispute as to whether such claim was in fact underpaid.

(c) For purposes of this section, the term "underpayments" shall refer to errors made by the pharmacist or the fiscal intermediary in determining payments for claims submitted within the billing time limits specified in Section 14115.

CHAPTER 1147

An act to amend Section 25402 of the Public Resources Code, relating to energy resources.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost-effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt any revision which, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost-effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt any revision which, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, for all appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable

efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned.

(2) No new appliance regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of the conflict.

SEC. 2. Section 25402 of the Public Resources Code is amended to read:

25402. The commission shall, after one or more public hearings, do all of the following, in order to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy:

(a) Prescribe, by regulation, lighting, insulation climate control system, and other building design and construction standards which increase the efficiency in the use of energy for new residential and new nonresidential buildings. The standards shall be cost-effective, when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically update the standards and adopt any revision which, in its judgment, it deems necessary. Six months after the commission certifies an energy conservation manual pursuant to subdivision (c) of Section 25402.1, no city, county, city and county, or state agency shall issue a permit for any building unless the building satisfies the standards prescribed by the commission pursuant to this subdivision or subdivision (b) of this section which are in effect on the date an application for a building permit is filed.

(b) Prescribe, by regulation, energy conservation design standards for new residential and new nonresidential buildings. The standards shall be performance standards and shall be promulgated

in terms of energy consumption per gross square foot of floorspace, but may also include devices, systems, and techniques required to conserve energy. The standards shall be cost-effective when taken in their entirety, and when amortized over the economic life of the structure when compared with historic practices. The commission shall periodically review the standards and adopt any revision which, in its judgment, it deems necessary. A building that satisfies the standards prescribed pursuant to this subdivision need not comply with the standards prescribed pursuant to subdivision (a) of this section. The commission shall comply with the provisions of this subdivision before January 1, 1981.

(c) (1) Prescribe, by regulation, standards for minimum levels of operating efficiency, based on a reasonable use pattern, for all appliances whose use, as determined by the commission, requires a significant amount of energy on a statewide basis. The minimum levels of operating efficiency shall be based on feasible and attainable efficiencies or feasible improved efficiencies which will reduce the electrical energy consumption growth rate. The standards shall become effective no sooner than one year after the date of adoption or revision. No new appliance manufactured on or after the effective date of the standards may be sold or offered for sale in the state, unless it is certified by the manufacturer thereof to be in compliance with the standards. The standards shall be drawn so that they do not result in any added total costs to the consumer over the designed life of the appliances concerned. At least one year prior to the adoption or amendment of a standard for an appliance, the commission shall notify the Legislature of its intent, and the justification therefor, to adopt or amend a standard for the appliance.

(2) During the period of five years after the commission has adopted a standard for a particular appliance, under paragraph (1), no increase or decrease in the minimum level of operating efficiency required by the standard for that appliance shall become effective.

(3) Neither the commission nor any other state agency shall take any action to decrease any standard adopted under this subdivision on or before January 1, 1984, prescribing minimum levels of operating efficiency for any appliance. Prior to January 1, 1986, the commission shall not take any action to increase any standard prescribing minimum levels of operating efficiency for any appliance or adopt any new standard under paragraph (1). Prior to January 1, 1986, any appliance manufacturer doing business in this state shall provide directly, or through an appropriate trade or industry association, information, as specified by the commission after consultation with manufacturers doing business in the state and appropriate trade or industry associations on sales of appliances so that the commission may study the effects of regulations on those sales. The trade or industry association may submit sales information in an aggregated form in a manner that allows the commission to carry out the purposes of the study. The commission shall treat any sales information of an individual manufacturer as confidential and

that information shall not be a public record. The commission shall not request any information that cannot be reasonably produced in the exercise of due diligence by the manufacturer. Notwithstanding paragraph (2) and this paragraph, the commission may do any of the following:

(A) Increase the minimum level of operating efficiency in an existing standard up to the level of the National Voluntary Consensus Standards 90, adopted by the American Society of Heating, Refrigeration, and Air Conditioning Engineers or, for appliances not covered by that standard, up to the level established in a similar nationwide consensus standard.

(B) Change the measure or rating of efficiency of any standard, if the minimum level of operating efficiency remains substantially the same.

(C) Adjust the minimum level of operating efficiency in an existing standard in order to reflect changes in test procedures that the standards require manufacturers to use in certifying compliance, if the minimum level of operating efficiency remains substantially the same.

(D) Adopt a new standard for an appliance using an innovative design or having an innovative or specialized function, if that appliance is of the same general type and category for which a standard already exists.

(E) Readopt a standard preempted, enjoined, or otherwise found legally defective by an administrative agency or a lower court, if final legal action determines that the standard is valid and if the standard which is readopted is not more stringent than the standard that was found to be defective or preempted.

(F) Adopt or amend any existing or new standard at any level of operating efficiency, if the Governor has declared an energy emergency pursuant to Section 8558 of the Government Code.

(4) No new appliance regulated under paragraph (1), which is manufactured on or after July 1, 1984, may be sold, or offered for sale, in the state, unless the date of the manufacture is permanently displayed in an accessible place on that appliance.

(d) Recommend minimum standards of efficiency for the operation of any new facility at a particular site which are technically and economically feasible. No site and related facility shall be certified pursuant to Chapter 6 (commencing with Section 25500), unless the applicant certifies that standards recommended by the commission have been considered, which certification shall include a statement specifying the extent to which conformance with the recommended standards will be achieved.

Whenever the provisions of this section and the provisions of Chapter 11.5 (commencing with Section 19878) of Part 3 of Division 13 of the Health and Safety Code are in conflict, the commission shall be governed by the provisions of that chapter of the Health and Safety Code to the extent of the conflict.

SEC. 3. Section 2 of this bill incorporates amendments to Section

25402 of the Public Resources Code proposed by both this bill and AB 191. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 25402 of the Public Resources Code, and (3) this bill is enacted after AB 191, in which case Section 1 of this bill shall not become operative.

CHAPTER 1148

An act to amend Section 830.4 of the Penal Code, relating to peace officers.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. Such officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of such officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. Such peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a security department of a school district pursuant to Section 39670 of the Education Code.

(h) Safety police officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500), Chapter 5, Division 7, Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

SEC. 1.5. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. These officers shall also have the authority of peace officers anywhere in the state as to an offense committed, or which there is probable cause to believe has been committed, with respect to persons or property the protection of which is the duty of the officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. These peace officers may carry firearms only if authorized by, and under such terms and conditions as are specified by, their employing agency.

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a police department of a school district pursuant to Section 39670 of the Education Code.

(h) Safety police officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport law enforcement officer by a city, county, or district operating the airport or by a joint powers agency, created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, operating the airport.

(*l*) Court service officers in a county of the third class.

SEC. 2. It is the intent of the Legislature that the changes effected by this act serve only to rename security officers of the County of Los Angeles as safety police officers of the County of Los Angeles.

SEC. 3. Section 1.5 of this bill incorporates amendments to

Section 830.4 of the Penal Code proposed by both this bill and AB 2108. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 830.4 of the Penal Code, and (3) this bill is enacted after AB 2108, in which case Section 1 of this bill shall not become operative.

CHAPTER 1149

An act to add Chapter 20 (commencing with Section 22450) to Division 8 of the Business and Professions Code, relating to immigration consultants.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Chapter 20 (commencing with Section 22450) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 20. IMMIGRATION CONSULTANTS

22450. On and after January 1, 1984, it is unlawful for any person, for compensation, other than persons authorized to practice law or authorized by federal law to represent persons before the Board of Immigration Appeals or the United States Immigration and Naturalization Service, to engage in the business or act in the capacity of an immigration consultant within this state except as provided by this chapter.

22451. (a) A person engages in the business or acts in the capacity of an immigration consultant when that person gives advice on an immigration matter, including drafting an application, brief, document, petition or other paper, completing a form provided by a federal or state agency in an immigration matter.

(b) "Immigration matter" means any proceeding, filing, or action affecting the immigration or citizenship status of any person which arises under immigration and naturalization law, executive order or presidential proclamation, or action of the United States Immigration and Naturalization Service, the United States Department of State or the United States Department of Labor.

(c) "Compensation" means money, property, or anything else of value.

22452. (a) Every person engaged in the business or acting in the capacity of an immigration consultant who enters into a contract or agreement with a client to provide services shall, prior to providing any services, provide the client with a written contract, the contents of which shall be prescribed by the Department of Consumer Affairs in regulations promulgated by it.

(b) The written contract shall include provisions relating to the following:

(1) The services to be performed.

(2) The costs of the services to be performed.

There shall be printed on the face of the contract in 10-point bold type a statement that the immigration consultant is not an attorney and may not perform the legal services that an attorney performs.

(c) The written contract shall not include provisions relating to the following:

(1) Any guarantee or promise, unless the immigration consultant has some basis in fact for making the guarantee or promise.

(2) Any statement that the immigration consultant can or will obtain special favors from or has special influence with the United States Immigration and Naturalization Service.

(d) The provisions of the written contract shall be stated both in English and in the language of the client.

(e) The client shall have the right to rescind the contract within 72 hours of signing the contract. The contents of this subdivision shall be conspicuously set forth in the written contract in both English and the language of the client.

(f) A violation of any provision of this section constitutes a misdemeanor.

(g) This section does not apply to employees of nonprofit, tax-exempt corporations who help clients, free of charge, complete application forms in an immigration matter.

22453. No person engaged in the business or acting in the capacity of an immigration consultant shall retain in his or her possession original documents of a client.

22454. It is unlawful for any person engaged in the business or acting in the capacity of an immigration consultant to do any of the following acts:

(a) Make false or misleading statements to a client while providing services to that client.

(b) Make any guarantee or promise to a client, unless the guarantee or promise is in writing and the immigration consultant has some basis in fact for making the guarantee or promise.

(c) Make any statement that the immigration consultant can or will obtain special favors from or has special influence with the United States Immigration and Naturalization Service.

22455. A violation of any provision of this chapter constitutes a misdemeanor punishable by a fine of not less than five hundred dollars ($500) or more than two thousand dollars ($2,000), or imprisonment for not more than one year, or both such fine and imprisonment.

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 1150

An act to amend Section 2808 of, and to add Sections 2810.5, 2814, and 2815 to, the Penal Code, relating to prison industries.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 2808 of the Penal Code is amended to read:

2808. The board shall, in the exercise of its duties, have all the powers and do all the things which the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To appoint a general manager to serve as the chief administrative officer of the authority. The person so appointed shall serve at the pleasure of the chairman. The general manager shall have wide and successful experience with a productive enterprise and have a demonstrated appreciation of the problems associated with prison management.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Such procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under its jurisdiction to enable the authority to operate as a self-supporting organization, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private

industry in the state.

(i) To hold public hearings pursuant to paragraph (h) above to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall assure adequate public notice of such hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars ($50,000) shall be established unless and until a hearing concerning the enterprise has been held by a committee of persons designated by the board including at least two board members. The board shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if the board determines it would have a comprehensive and substantial adverse impact on California industry which cannot be mitigated.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold, which prices, except for articles or services to be sold to the Department of Corrections, shall be as near as possible to the prices for which agencies eligible to purchase would buy items of equivalent quality from commercial sources.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

SEC. 1.5. Section 2808 of the Penal Code is amended to read:

2808. The board shall, in the exercise of its duties, have all the powers and do all the things which the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To appoint a general manager to serve as the chief

administrative officer of the authority. The person so appointed shall serve at the pleasure of the chairman. The general manager shall have wide and successful experience with a productive enterprise and have a demonstrated appreciation of the problems associated with prison management.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Such procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under its jurisdiction to enable the authority to operate as a self-supporting organization, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to paragraph (h) above to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall assure adequate public notice of such hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars ($50,000) shall be established unless and until a hearing concerning the enterprise has been held by a committee of persons designated by the board including at least two board members. The board shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if the board determines it would have a comprehensive and substantial adverse impact on California industry which cannot be mitigated.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

SEC. 1.7. Section 2808 of the Penal Code is amended to read:

2808. The board shall, in the exercise of its duties, have all the powers and do all the things which the board of directors of a private

corporation would do, except as specifically limited in this article, including, but not limited to, the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To contract to employ an executive director to serve as the chief administrative officer of the authority. The person so appointed shall serve at the pleasure of the chairman. The executive director shall have wide and successful experience with a productive enterprise and have a demonstrated appreciation of the problems associated with prison management.

Any provision in the annual Budget Act providing for the compensation of a general manager shall be deemed to be available for the purpose of paying the executive director.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Such procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under its jurisdiction to enable the authority to operate as a self-supporting organization, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to paragraph (h) above to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall assure adequate public notice of such hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars ($50,000) shall be established unless and until a hearing concerning the enterprise has been held by a committee of persons designated by the board including at least two board members. The board shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if the board determines it would have a comprehensive and substantial adverse impact on California industry which cannot be mitigated.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold, which prices, except for articles or services to be sold to the Department of Corrections, shall be as near as possible to the prices for which agencies eligible to purchase would buy items of equivalent quality from commercial sources.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

SEC. 1.8. Section 2808 of the Penal Code is amended to read:

2808. The board shall, in the exercise of its duties, have all the powers and do all the things which the board of directors of a private corporation would do, except as specifically limited in this article, including, but not limited to, the following:

(a) To enter into contracts and leases, execute leases, pledge the equipment, inventory and supplies under the control of the authority and the anticipated future receipts of any enterprise under the jurisdiction of the authority as collateral for loans, and execute other necessary instruments and documents.

(b) To assure that all funds received by the authority are kept in commercial accounts according to standard accounting practices.

(c) To arrange for an independent annual audit.

(d) To review and approve the annual budget for the authority, in order to assure that the solvency of the Prison Industries Revolving Fund is maintained.

(e) To contract to employ an executive director to serve as the chief administrative officer of the authority. The person so appointed shall serve at the pleasure of the chairman. The executive director shall have wide and successful experience with a productive enterprise and have a demonstrated appreciation of the problems associated with prison management.

Any provision in the annual Budget Act providing for the compensation of a general manager shall be deemed to be available for the purpose of paying the executive director.

(f) To apply for and administer grants and contracts of all kinds.

(g) To establish, notwithstanding any other provision of law, procedures governing the purchase of raw materials, component parts, and any other goods and services which may be needed by the authority or in the operation of any enterprise under its jurisdiction. Such procedures shall contain provisions for appeal to the board from any action taken in connection with them.

(h) To establish, expand, diminish, or discontinue industrial, agricultural and service enterprises under its jurisdiction to enable the authority to operate as a self-supporting organization, to provide as much employment for inmates as is feasible, and to provide diversified work activities to minimize the impact on existing private industry in the state.

(i) To hold public hearings pursuant to paragraph (h) above to provide an opportunity for persons or organizations who may be affected to appear and present testimony concerning the plans and activities of the authority. The authority shall assure adequate public notice of such hearings. No new industrial, agricultural, or service enterprise which involves a gross annual production of more than fifty thousand dollars ($50,000) shall be established unless and until a hearing concerning the enterprise has been held by a committee of persons designated by the board including at least two board members. The board shall take into consideration the effect of a proposed enterprise on California industry and shall not approve the establishment of the enterprise if the board determines it would have a comprehensive and substantial adverse impact on California industry which cannot be mitigated.

(j) To periodically determine the prices at which activities, supplies, and services shall be sold.

(k) To report to the Legislature in writing, on or before February 1 of each year, regarding:

(1) The financial activity and condition of each enterprise under its jurisdiction.

(2) The plans of the board regarding any significant changes in existing operations.

(3) The plans of the board regarding the development of new enterprises.

(4) A breakdown, by institution, of the number of prisoners at each institution, working in enterprises under the jurisdiction of the authority, said number to indicate the number of prisoners which are not working full time.

SEC. 2. Section 2810.5 is added to the Penal Code, to read:

2810.5. Notwithstanding any other provision of law, the Pooled Money Investment Board may grant loans to the authority when money is appropriated for that purpose by the Legislature, upon application by the Prison Industry Board, in order to finance the establishment of a new industrial, agricultural, or service enterprise. All loans shall bear the same interest rate as the pooled money market investment rate and shall have a maximum repayment period of 20 years from the date of approval of the loan.

SEC. 3. Section 2814 is added to the Penal Code, to read:

2814. Notwithstanding any provision of this chapter, products and byproducts of agricultural and animal husbandry enterprises, except nursery stock, may be sold to private persons, at public or private sale, under rules prescribed by the board.

SEC. 4. Section 2815 is added to the Penal Code, to read:

2815. The authority may, under rules prescribed by the board, dispose of products developed from the operations of industrial enterprises in prisons and institutions under the jurisdiction of the authority by sale to foreign governments, corporations for distribution in foreign countries, and private persons or their agents in markets outside the United States and in countries which permit the importation of prison-made goods. All sales made pursuant to this section shall be reported to the Legislature in the board's annual report pursuant to Section 2808.

SEC. 5. (a) Section 1.5 of this bill incorporates amendments to Section 2808 of the Penal Code proposed by both this bill and AB 717. It shall only become operative if (1) both bills are enacted and become effective January 1, 1984, (2) each bill amends Section 2808 of the Penal Code, and (3) AB 2187 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 717, in which case Sections 1, 1.7 and 1.8 of this bill shall not become operative.

(b) Section 1.7 of this bill incorporates amendments to Section 2808 of the Penal Code proposed by both this bill and AB 2187. It shall only become operative if (1) both bills are enacted and become effective January 1, 1984, (2) each bill amends Section 2808 of the Penal Code, (3) AB 717 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 2187 in which case Sections 1, 1.5 and 1.8 of this bill shall not become operative.

(c) Section 1.8 of this bill incorporates amendments to Section 2808 of the Penal Code proposed by this bill, AB 717, and AB 2187. It shall only become operative if (1) all three bills are enacted and become effective January 1, 1984, (2) all three bills amend Section 2808 of the Penal Code, and (3) this bill is enacted after AB 717 and AB 2187, in which case Sections 1, 1.5 and 1.7 of this bill shall not become operative.

CHAPTER 1151

An act to amend Sections 15200.1 and 15200.2 of, and to add Sections 11479.5, 11479.6, and 15200.7 to, the Welfare and Institutions Code, relating to child support enforcement, and making an appropriation therefor.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. The Legislature finds and declares that there is no consistency to the functions performed or the level of performance of the counties' family support enforcement program.

The Legislature further finds and declares that current law allows

counties to receive and expend state incentive payments without regard to existing backlogs of cases within the child support enforcement program or to the relative need for improvements in that program.

SEC. 2. Section 11479.5 is added to the Welfare and Institutions Code, to read:

11479.5. The department shall develop and implement regulations establishing basic family support enforcement program components and priorities. The regulations shall include methods for measuring performance of these activities.

The department shall report to the Legislature no later than January 1, 1985, by providing a summary of its activities in establishing the regulations required pursuant to this section. This report shall also contain at least three options for the Legislature to consider in order to link the state's family support enforcement incentive payment system to performance measures adopted by regulation. These options shall include rewards as well as sanctions for program performance in the reimbursement methods for family support enforcement incentive payments.

SEC. 3. Section 11479.6 is added to the Welfare and Institutions Code, to read:

11479.6. The department shall seek pilot program authority from the federal government to integrate federal family support enforcement incentive payments to the state and counties into the performance program design required, pursuant to Section 11479.5.

The department shall report to the Legislature on the progress made in implementing the provisions of this section by July 1, 1984.

SEC. 4. 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 on collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7. 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. 5. 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 on collections used to reduce or repay aid which is paid pursuant to this chapter and for aid which is entitled to federal matching funds. In addition, a county may qualify for an additional incentive payment under Section 15200.7.

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.

SEC. 6. Section 15200.7 is added to the Welfare and Institutions Code, to read:

15200.7. In addition to funds appropriated pursuant to Sections 15200.1 and 15200.2, there is hereby annually appropriated from the General Fund to the State Department of Social Services, beginning in fiscal year 1984–85, and based on the increase in fiscal year 1983–84 Aid to Families with Dependent Children child support collections above Aid to Families with Dependent Children child support collections in fiscal year 1982–83, a sum equal to 50 percent of the state's share of those increased collections. The sum shall be computed after payment of the incentive pursuant to Sections 15200.1 and 15200.2 has been taken out of the state share. The sum to be appropriated shall be computed in a similar manner annually thereafter. This sum shall be allocated by the department to each county which increased its collections and shall be based on each county's percentage of the total increased collections in those counties.

CHAPTER 1152

An act to amend Section 50740 of, and to add Chapter 11 (commencing with Section 6120) to Part 3 of Division 5 of, the Health and Safety Code, relating to community facilities, and making an appropriation therefor.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Chapter 11 (commencing with Section 6120) is added to Part 3 of Division 5 of the Health and Safety Code, to read:

CHAPTER 11. ASSISTANCE TO SMALL RURAL COMMUNITIES

6120. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter.

(a) "Community facility" means a public or mutual water system, or publicly operated waste water system.

(b) "Department" means the Department of Housing and Community Development.

(c) "Eligible grantee" means a local governmental entity or a private nonprofit organization which has demonstrated capacity to provide technical assistance on all subjects specified in subdivision (g).

(d) "Low-income community" means a community in which the median income of the persons in the community, area, or city is less than 70 percent of the median income in the state.

(e) "Rural community" means any community, area, or city with less than 5,000 population.

(f) "Seed money" means funds granted by the department pursuant to the provisions of this chapter for project organization and development, test wells, preliminary engineering, professional fees, hookups, and other costs which are necessary to get a project approved for financing from local, state, or federal sources, or the local share of matching funds from state or federal programs for construction.

(g) "Technical assistance" means assistance and advice on all of the following subjects:

(1) Organization, including formation, financing, and operation, of public and private nonprofit service entities.

(2) Community responsibilities, including the conduct of meetings, maintenance of minutes of meetings, preparation and analysis of budgets, keeping of fiscal records, and supervision of staff.

(3) Operation and maintenance, including schedules and techniques pertaining to all parts of a facility, and maintenance control systems and maintenance recordkeeping to assure adequate maintenance, including schedules and techniques pertaining to all parts of a facility, and maintenance control systems and maintenance recordkeeping to assure adequate maintenance is performed on a facility.

(4) Project development, including, but not limited to:

(A) The preparation of plans for needed expansion, creation of services, and schedules for expected major repairs or replacement

needs.

(B) Negotiation of contracts for professional services.

(C) An examination of various funding alternatives, and packaging applications for assistance.

(D) Review of engineering plans and specifications for development projects.

(E) Compliance with appropriate regulations relative to funding agencies.

(5) Financial assistance available from the department in seed money grants pursuant to this chapter.

6121. The Legislature finds and declares that small rural communities are unable to take advantage of various local, state, and federal facility development programs due to their lack of technical expertise, staff, and seed money. The Legislature finds and declares that changing state and federal regulations relative to the provision of domestic water and waste water disposal are creating an extra hardship upon rural areas. The Legislature further finds and declares that the provisions of this chapter are necessary in order to provide assistance to rural areas so that they may take advantage of existing programs and develop self-help expertise enabling them to assist themselves in the future.

6122. The department shall establish a Rural Community Facilities Technical Assistance Program, under which, subject to the availability of funds therefor, contracts shall be made by the department with public entities and nonprofit corporations for the provision of technical assistance to rural and low-income communities in the operation, maintenance, and development of community facilities.

6123. The program shall be administered by the Director of Housing and Community Development.

6124. The program shall be for the purpose of helping rural and low-income communities to take advantage of various local, state, and federal financing programs to develop community facilities, ensuring that these facilities are developed and operated in such a manner that the facilities or services last for a normal period of time, as determined by the department, and ensuring that, wherever possible, reasonable user rates are charged for use of the facilities. The department shall provide in the administration of the program that funds pursuant to this program shall, to the greatest extent practicable, be used with the greatest amount of matching nonprogram funds.

6125. The Rural Community Facility Grant Fund is hereby created in the State Treasury. The fund is continuously appropriated, without regard to fiscal years, notwithstanding Section 13340 of the Government Code, to the department for expenditure for the purpose of making grants pursuant to the provisions of this chapter and to pay the costs incurred by the department in administering the grant program.

6126. The department shall grant funds by contract with eligible

grantees under the following conditions:

(a) That grantees shall provide all aspects of technical assistance on at least a countywide basis.

(b) That grantees shall use no more than 80 percent of those funds for staff and administrative costs connected with the provision of that technical assistance.

(c) That each community designated by a grantee to receive seed money shall be reviewed and certified by the department as eligible for those funds.

(d) That any community designated to receive seed money shall also receive technical assistance.

(e) That no community shall receive seed money which is greater than the sum of seven thousand five hundred dollars ($7,500) or two hundred dollars ($200) per family in such community, whichever is less.

(f) The department and the grantee shall place seed money funds in a joint savings account which requires both the department and grantee to give authorization prior to the withdrawal of those funds.

6127. The department shall develop and adopt rules and regulations to implement the provisions of this chapter.

SEC. 2. Section 50740 of the Health and Safety Code is amended to read:

50740. (a) The Rental Housing Construction Incentive Fund established in the State Treasury is hereby renamed the Rental Housing Construction Fund. Notwithstanding Section 13340 of the Government Code, money in the fund is hereby continuously appropriated to the Department of Housing and Community Development, and, except as provided in subdivisions (b), (c), and (d), shall be utilized for purposes of this chapter, including Section 50745.1, and for the purposes of Section 50775.5. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(b) Money from the fund utilized by the agency for development costs which was repaid to the agency or disencumbered between June 30, 1982, and June 30, 1983, and any additional funds or interest which is available for encumbrance on June 30, 1983, shall be deposited in a separate account in the fund and utilized as follows:

(1) Eight million one hundred thousand dollars ($8,100,000) shall be utilized by the agency for activities authorized by Article 4.5 (commencing with Section 51180) of Chapter 5 of Part 3.

(2) Five hundred thousand dollars ($500,000) shall be transferred by the agency to the department for deposit in the Rural Community Facility Grant Fund, established pursuant to Section 6125, and utilized to carry out the program established by Chapter 11 (commencing with Section 6120) of Part 3 of Division 5, if Assembly

Bill 1604 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Three million dollars ($3,000,000) shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for making deferred payment loans for residential hotels as authorized by subdivision (b) of Section 50661 and for purposes of subdivision (c) of Section 50661, if Senate Bill 26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(4) One million seven hundred thousand dollars ($1,700,000) shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized to carry out the program established by Chapter 11 (commencing with Section 50800), if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(5) Two million five hundred thousand dollars ($2,500,000) shall be transferred by the agency to the Trustees of the California State University for deposit in the Affordable Student Housing Revolving Fund, established pursuant to Section 90087 of the Education Code, and utilized to carry out the program established by Article 3 (commencing with Section 90085) of Chapter 8 of Part 55 of the Education Code, if Assembly Bill 133 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(6) Three hundred thousand dollars ($300,000) shall be transferred by the agency to the department and utilized to carry out the program established by Chapter 3.6 (commencing with Section 50533), if Senate Bill 19 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(7) Four million two hundred thousand dollars ($4,200,000) shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes authorized by that section, if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(c) An amount not to exceed four million dollars ($4,000,000) of the moneys from the fund utilized by the agency for development costs which is repaid to the agency or disencumbered on or after July 1, 1983, shall be deposited in the separate account established pursuant to subdivision (b) and utilized and apportioned in accordance with the following percentages as it becomes available:

(1) Fifty percent of the moneys shall be transferred by the agency to the department and deposited in the Housing Rehabilitation Loan Fund, established pursuant to Section 50661, and utilized for the purposes specified in paragraph (3) of subdivision (b) if Senate Bill

26 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(2) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the Emergency Housing and Assistance Fund, established pursuant to Section 50800, and utilized for the purposes specified in paragraph (4) of subdivision (b) if Assembly Bill 1363 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(3) Twenty-five percent of the moneys shall be transferred by the agency to the department for deposit in the annuity fund, established pursuant to Section 50738.5, and utilized for the purposes specified in paragraph (7) of subdivision (b) if Assembly Bill 1765 of the 1983–84 Regular Session of the Legislature is chaptered and becomes effective and operative on or before January 1, 1984.

(d) If any of the bills specified in paragraphs (2) to (7), inclusive, of subdivision (b), or subdivision (c), are not chaptered or do not become effective and operative on or before January 1, 1984, or the expenditure of funds for any of the purposes authorized by subdivisions (b) or (c) is otherwise reduced, the amount of funds allocated pursuant to those subdivisions shall be reallocated by the agency, between January 1, 1984. and January 14, 1984, among the remaining programs specified in subdivision (b) or (c), for which the funds were not reduced, on a pro rata basis.

CHAPTER 1153

An act to repeal and add Sections 4216 and 4217 of the Government Code, relating to subsurface installations, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 4216 of the Government Code is repealed.

SEC. 2. Section 4216 is added to the Government Code, to read:

4216. (a) For purposes of this section:

(1) "Inquiry identification number" means the number which shall be provided by a regional notification center to every person who contacts the center pursuant to subdivision (c) or (d).

(2) "Subsurface installation" means any underground pipeline, conduit, duct, wire, or other structure, except nonpressurized sewerlines, nonpressurized storm drains, or other nonpressurized drain lines, operated or maintained in or across a public street or public right-of-way.

(3) "Regional notification center" means a nonprofit association

or other organization of operators of subsurface installations which provides advance warning of excavations or other work close to existing subsurface installations, for the purpose of protecting those installations from damage, removal, relocation, or repair.

(4) "Emergency" means a sudden, unexpected occurrence, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes such occurrences as fire, flood, earthquake, or other soil or geologic movements, as well as such occurrences as riot, accident, or sabotage.

(b) Every owner of a subsurface installation, except the Department of Transportation shall become a member of, participate in, and share in the costs of a regional notification center. Owners of subsurface installations who are members of, participate in, and share in the costs of a regional notification center, including, but not limited to, the South Shore Utility Coordinating Council, the Underground Service Alert—Northern California or the Underground Service Alert—Southern California, on or after July 1, 1984, shall be deemed to be in compliance with the provisions of this section and Section 4217.

(c) Except in an emergency, every person planning to conduct any excavation shall contact the appropriate regional notification center, at least two working days prior to commencing that excavation, if the excavation will be conducted in an area which is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation.

(d) Every person planning to conduct an excavation in a private easement may contact the appropriate regional notification center if the private easement is known, or reasonably should be known, to contain subsurface installations other than the underground facilities owned or operated by the excavator. The regional notification center shall provide an inquiry identification number to the person who contacts the center and shall notify any member, if known, who has a subsurface installation in the area of the proposed excavation.

(e) The requirements of this section shall apply to state agencies and to local agencies which own or operate subsurface installations, except as otherwise provided in subdivision (b). For the purposes of this section, "state agency" means every state agency, department, division, bureau, board, or commission, and "local agency" means a city, county, city and county, school district, or special district.

(f) This section shall not be construed to limit any other provision of law granting governmental immunity to state or local agencies or to impose any liability or duty of care not otherwise imposed by law upon any state or local agency.

(g) This section does not exempt any person or corporation from

Sections 7951, 7952, and 7953 of the Public Utilities Code.

(h) This section shall become operative July 1, 1984, but shall not apply, until January 1, 1985, to waterlines or pressurized sewerlines owned or operated by local agencies or to water corporations, as defined by Section 241 of the Public Utilities Code, which own or operate subsurface installations.

SEC. 3. Section 4217 of the Government Code is repealed.

SEC. 4. Section 4217 is added to the Government Code, to read:

4217. (a) No permit to excavate issued by any local agency, as defined in Section 4216, or any state agency, shall be valid unless the applicant has been provided an inquiry identification number by a regional notification center pursuant to Section 4216. For purposes of this section, "state agency" means every state agency, department, division, bureau, board, or commission, including the Department of Transportation.

(b) This section does not exempt any person or corporation from Sections 7951, 7952, and 7953 of the Public Utilities Code.

(c) This section shall become operative July 1, 1984, but shall not apply, until January 1, 1985, to waterlines or pressurized sewerlines owned or operated by local agencies or to water corporations, as defined by Section 241 of the Public Utilities Code, which own or operate subsurface installations.

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:

Chapter 1507 of the Statutes of 1982 enacted certain provisions requiring, among other things, owners of subsurface installations to become members of regional notification centers. Those provisions will become operative July 1, 1983. In order to effect certain changes in those provisions as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1154

An act to add Chapter 4 (commencing with Section 15380) to Division 3 of Title 2 of the Government Code, relating to economic and business development, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Chapter 4 (commencing with Section 15380) is added to Division 3 of Title 2 of the Government Code, to read:

CHAPTER 4. SMALL BUSINESS DEVELOPMENT CENTER ACT

15380. The Legislature finds and declares that:

(a) Small businesses are a vital part of the state's economic well-being. There is documented evidence that small businesses contribute to increased productivity and innovation.

(b) Unemployment is a statewide problem and the prudent establishment and expansion of small businesses can expand employment opportunities.

(c) In order to maintain a healthy state economy and to aid economically depressed communities, entrepreneurship among small businesses must be stimulated.

(d) New technological development when transferred to small businesses can lead to new employment opportunities and a healthy and stable economy.

15381. It is the intent of the Legislature to stimulate the economy and promote new job opportunities by assisting in the development of small businesses by providing a comprehensive network of services to these businesses. These services shall include management assistance, business education and training, capital formation assistance, economic and business data dissemination, and technical assistance. It is further the intent of the Legislature to provide for the transfer of new technological development to the small business sector by linking research and development institutions to small business owners.

It is the intent of the Legislature that the network of services developed pursuant to this chapter be accessible to small businesses in the state by means of, among other things, a computerized data base. The Legislature intends for this data base to be an inventory of available services to small businesses.

It is the intent of the Legislature to provide assistance to California's small businesses by management and staff experienced and knowledgeable in small business matters, which skills are not always readily available within the civil service system.

15382. For the purposes of this chapter:

(a) "SBDC" means a Small Business Development Center as defined by federal Public Law 96-302.

(b) "SBDC plan" means the plan required by the federal Small Business Administration pursuant to federal Public Law 96-302.

(c) "Center" means a Small Business Development Center.

(d) "Lead organization" means the Department of Economic and Business Development which is the formal applicant for the Small Business Development Center program pursuant to federal Public Law 96-302.

15383. The SBDC plan shall describe the purpose of the centers, the services to be provided to small businesses, the location of the central SBDC and branch centers, the timetable for the operation of the center, how the provision of services will be made to small businesses, and how the center will become independent of state

funds.

The plan shall also describe how the SBDC will provide at least the following:

(a) Business startup analyses, technical assistance, financial planning services and seminars and conferences for persons establishing or expanding small businesses.

(b) Information on the availability of federal and state tax incentives for investment in small businesses and employee training programs.

(c) The collection and dissemination of economic and business data pertinent to small businesses, such as demography, market analyses and workforce surveys.

(d) A system whereby small businesses can be linked to research and development institutions for the purposes of transferring new technology to a new or expanding small business.

(e) Access to all existing resources of small business assistance from the local, state, and federal governments and any or all private organizations.

15384. There is hereby created within the department a Small Business Development Center. The SBDC shall be administered according to the SBDC plan. The department shall develop an SBDC plan for submission to the federal Small Business Administration. The SBDC plan shall be developed by the department with the assistance of the following:

(a) The Office of Small Business Development within the Department of Economic and Business Development.

(b) The Small and Minority Business Procurement Assistance Division of the Department of General Services.

(c) The Employment Development Department.

(d) The Chancellor of the California Community Colleges.

(e) The Chancellor of the California State University.

(f) The President of the University of California.

(g) The California Private Industry Councils.

(h) The chairpersons of the Assembly Select Committee on Small Business, the Senate Select Committee on Small Business Enterprises, the Assembly Committee on Economic Development and New Technologies, and the Joint Committee on the State's Economy.

The department may also solicit assistance from any other private, state, local, or federal entity which assists small businesses.

15385. The center may appoint agents and employees as it requires, and determine their qualifications, duties, terms of employment, and compensation. The center shall adopt personnel rules and regulations applicable to its employees.

15386. In order to reduce costs to the state, the department shall include in the SBDC plan a means to solicit private contributions for the operation of the center.

15387. Upon completion of the plan and before application to the Small Business Administration, the department shall submit the

SBDC plan for review to the chairpersons of the Assembly Select Committee on Small Business, the Senate Select Committee on Small Business Enterprises, the Assembly Committee on Economic Development and New Technologies, and the Joint Committee on the State's Economy.

15388. There is hereby established the California Small Business Development Center Fund, moneys for which shall be appropriated in the annual Budget Act. All private contributions, state and federal funds, and fees for services, if levied, shall be deposited into the fund for the operation of the center. The Controller shall disburse such money as it is available in the fund upon the request of the lead organization.

The lead organization shall submit an annual budget, for inclusion in the Governor's Budget, showing funding from all sources.

15389. The department shall report to the Legislature annually the effects of this center on the small business community in California.

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 expedite the establishment of a Small Business Development Center, which will stimulate California's economy by improving services to small businesses, it is necessary that this act take effect immediately.

CHAPTER 1155

An act to add Section 25347.5 to the Health and Safety Code, and to add Section 43152.5 to the Revenue and Taxation Code, relating to hazardous wastes, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 25347.5 is added to the Health and Safety Code, to read:

25347.5. (a) If the board finds that the total amount of the tax collected pursuant to this chapter for a fiscal year will be less than the maximum amount of taxes which may be collected for that fiscal year, as specified in Section 25347, the board shall notify the director. Upon receiving this notice, the director shall make a finding whether an increase in the tax collection to the maximum amount would be cost-effective and, if the director finds that the increase would be cost-effective, the director shall request the board to recalculate the

tax rate and reassess the tax for the purpose of collecting the maximum amount for that year, as specified in Section 25347.

(b) Notwithstanding Section 25345, upon receiving the request of the director specified in subdivision (a), the board shall recalculate the tax rate, as requested, and shall assess and collect any additional taxes that may be owed and refund or credit any amount of taxes overpaid for that fiscal year under the recalculated rate.

(c) The department shall reimburse the board for its costs in recalculating the rate, making the assessments, collecting the additional tax, and making any refunds pursuant to this section. If there is a dispute as to the amount of these costs, the Director of Finance shall determine this amount and the department and the board shall abide by this determination.

SEC. 2. Section 43152.5 is added to the Revenue and Taxation Code, to read:

43152.5. Any taxes assessed pursuant to Section 25347.5 of the Health and Safety Code are due and payable within 30 days after the date of assessment and the taxpayer shall deliver a remittance of the amount of the assessed tax to the office of the board within that 30-day period.

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

SEC. 4. This act is an urgency statute necessary for the immediate preservation of 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 recalculate the tax rate applicable to hazardous wastes in order to avoid a serious shortfall in revenues that could impair the effectiveness of the states' toxic waste program, it is necessary that this act take effect immediately.

CHAPTER 1156

An act to amend Sections 1798.200 and 1798.204 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 1798.200 of the Health and Safety Code is amended to read:

1798.200. The medical director of the local EMS agency may place on probation any certificate holder or suspend or revoke any certificate issued under the provisions of this part in accordance with guidelines established by the authority upon the finding by that medical director of an imminent threat to the public health and safety as evidenced by the occurrence of any of the following actions:

(a) Fraud in the procurement of any certification under this part.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence.

(e) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, and duties of prehospital personnel.

(f) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or certified copy thereof shall be conclusive evidence of such conviction.

(g) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this part or the regulations promulgated by the authority pertaining to prehospital personnel.

(h) Violating or attempting to violate any federal or state statute or regulation which regulates narcotics, dangerous drugs, or controlled substances.

(i) Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(j) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

SEC. 2. Section 1798.204 of the Health and Safety Code is amended to read:

1798.204. Proceedings for probation, suspension, revocation, or denial of a certificate, or denial of a renewal of a certificate under this part shall be conducted in accordance with guidelines established by the authority.

SEC. 3. The Legislature recognizes that it may be necessary in emergency medical services to act quickly to place a certificate holder on probation, or to suspend, revoke or deny a certificate in order to adequately protect the public health and safety. In eliminating the reference to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, in Section 2 of this act, it is the intent of the Legislature that proceedings for the above actions specified in the guidelines established by the Emergency Medical Services Authority, preserve the due process rights of applicants for certificates and of certificate

holders, while at the same time ensuring that the health and safety of the public is adequately protected.

SEC. 4. The Emergency Medical Service Authority may issue provisional guidelines pending the approval of permanent guidelines by the Commission on Emergency Medical Services pursuant to Section 1799.50 of the Health and Safety Code. Until such time as provisional guidelines are issued by the authority, but for no longer than six months after the effective date of this act, the procedures in effect immediately prior to the effective date of this section shall be followed. The provisional guidelines shall be replaced by permanent guidelines as soon as permanent guidelines are approved by the Commission on Emergency Medical Services.

SEC. 5. In implementing the provisions of Section 149.1 of Chapter 323 of the Statutes of 1983, the State Director of Health Services shall, within 30 days of the operative date of this act, adopt regulations as emergency regulations in accordance with provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of Chapter 3.5, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. Notwithstanding the provisions of Chapter 3.5, emergency regulations adopted by the Department of Health Services in order to implement the provisions of Section 323 shall not be subject to the review and approval of the Office of Administrative Law. The regulations shall become effective immediately upon filing with the Secretary of State.

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 ensure adequate protection of the public health and safety in emergency situations, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1157

An act to amend Sections 1805.1 and 1810.2 of, the Civil Code, relating to consumer credit.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 1805.1 of the Civil Code, as added by Section 3 of Chapter 1614 of the Statutes of 1982, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (b) of Section 1803.3 shall not exceed the greater

of:

(1) Eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed three thousand dollars ($3,000) plus an amount which shall not exceed two-thirds of 1 percent on that portion of the unpaid balance which exceeds three thousand dollars ($3,000), multiplied by the number of months, computed on the basis of a full month for any fractional month period in excess of 15 days, elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 2. Section 1805.1 of the Civil Code, as amended by Section 2 of Chapter 1611 of the Statutes of 1982, is amended to read:

1805.1. (a) The dollar amount of the finance charge shown

pursuant to item (b) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars ($1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars ($1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars ($12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars ($10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars ($10) if the unpaid balance does not exceed five hundred dollars ($500), (B) twenty-five dollars ($25) if the unpaid balance exceeds five hundred dollars ($500), but does not exceed one thousand dollars ($1,000), (C) fifty dollars ($50) if the unpaid balance exceeds one thousand dollars ($1,000), but does not exceed two thousand dollars ($2,000), or (D) seventy-five dollars ($75) if the unpaid balance exceeds two thousand dollars ($2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (b) of Section 1803.3, except to the extent (1) caused by the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) permitted by paragraph (2), (3), or (4) of subdivision (c) of Section 226.17 of Regulation Z, or (3) permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars ($5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars ($75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on January 1, 1986.

SEC. 3. Section 1810.2 of the Civil Code, as added by Section 7 of Chapter 1614 of the Statutes of 1982, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect

the finance charge authorized by this chapter. The finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed three thousand dollars ($3,000), 1.6 percent.

(b) If the outstanding balance is more than three thousand dollars ($3,000), 1 percent on the excess over three thousand dollars ($3,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

This section shall remain in effect only until January 1, 1986, and as of that date is repealed.

SEC. 4. Section 1810.2 of the Civil Code, as amended by Section 4 of Chapter 1611 of the Statutes of 1982, is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter. The finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed one thousand dollars ($1,000), 1½ percent.

(b) If the outstanding balance is more than one thousand dollars ($1,000), 1 percent on the excess over one thousand dollars ($1,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar ($1) for any month, one dollar ($1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars ($5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

This section shall become operative on January 1, 1986.

CHAPTER 1158

An act to amend Section 6355 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 6355 of the Revenue and Taxation Code is amended to read:

6355. (a) There are exempted from the taxes imposed by this part the gross receipts from the sales in bulk of monetized bullion which are substantially equivalent to transactions in securities or commodities through a national securities or commodities exchange and the storage, use or other consumption in this state of monetized bullion so sold.

(b) A sale in bulk, for purposes of this section, shall be deemed to have occurred if the amount of monetized bullion sold in the transaction totals, in face amount, the sum of one thousand dollars ($1,000) or more, or its equivalent.

(c) "Monetized bullion," for purposes of this section, means coins or other forms of money manufactured of gold, silver, or other metal and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation. "Monetized bullion," for purposes of this section, also means gold medallions struck under authority of the American Arts Gold Medallion Act (Title IV of Public Law 95-630).

(d) A sale of monetized bullion, for purposes of this section, shall be deemed to be substantially equivalent to a transaction in securities or commodities through a national securities or commodities exchange, if the sale is by or through a person registered pursuant to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not required to be registered under the Commodity Exchange Act.

(e) This section shall be deemed declaratory of existing law and not amendatory thereof.

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 1159

An act to amend Sections 4351, 4352, 4512, 4513, 4514, 4800, 4800.6, 4809, and 5126 of, and to repeal Section 4515 of the Civil Code, to amend Sections 704.710 and 904.1 of the Code of Civil Procedure, to amend Sections 26826 and 26859 of the Government Code, and to amend Sections 10000 and 10360 of the Health and Safety Code, relating to dissolution of marriage

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 4351 of the Civil Code is amended to read:

4351. In proceedings under this part, the superior court has jurisdiction to inquire into and render any judgment and make such orders as are appropriate concerning the status of the marriage, the custody and support of minor children of the marriage, the support of either party, the settlement of the property rights of the parties and the award of attorneys' fees and costs; provided, however, no such order or judgment shall be enforceable against an employee pension benefit plan unless the plan has been joined as a party to the proceeding.

SEC. 2. Section 4352 of the Civil Code is amended to read:

4352. Every judgment declaring a marriage a nullity or dissolving a marriage shall contain the following notice:

Notice: Please review your will. Unless a provision is made in the property settlement agreement, this court proceeding does not affect your will and the ability of your former spouse to take under it.

SEC. 3. Section 4512 of the Civil Code is amended to read:

4512. In actions for dissolution of the marriage, the court must file its decision as in other cases, and if it determines that no dissolution shall be granted, judgment shall therefore only be entered accordingly. If it determines that a dissolution ought to be granted, a judgment shall be entered declaring that the parties are entitled to have their marriage dissolved. After the entry of the judgment and before it becomes final, neither party shall have the right to dismiss the action without the consent of the other.

SEC. 3.5. Section 4512 of the Civil Code is amended to read:

4512. In actions for dissolution of the marriage, the court must file its decision and any statement of decision as in other cases, and if it determines that no dissolution shall be granted, judgment shall therefore only be entered accordingly. If it determines that a dissolution ought to be granted, a judgment shall be entered declaring that the parties are entitled to have their marriage dissolved. After the entry of the judgment and before it becomes final, neither party shall have the right to dismiss the action without the consent of the other.

SEC. 4. Section 4513 of the Civil Code is amended to read:

4513. In cases in which the court has determined that a decree of dissolution ought to be granted, but by mistake, negligence or inadvertence, the judgment has not been signed, filed and entered, the court may cause the judgment to be signed, dated, filed and entered therein as of the date when the same could have been signed, dated, filed and entered originally. If it appears to the satisfaction of the court that no appeal is to be taken in the action or

motion made for a new trial, to annul or set aside the judgment or for relief under Chapter 8 (commencing with Section 469) of Title 6 of Part 2 of the Code of Civil Procedure. This action may be taken by the court on its own motion or upon the motion of either party thereto. In contested cases, the motion of a party shall be with notice to the other party. The court may cause the judgment to be entered nunc pro tunc as aforesaid, even though the judgment may have been previously entered, where mistake, negligence or inadvertence the judgment was not entered as soon as it could have been entered under the law if applied for. Upon the entry of the judgment, the parties shall have the same rights with regard to the dissolution of marriage becoming final on the date that it would have become final, had the judgment been entered upon the date when it could have been originally entered.

SEC. 5. Section 4514 of the Civil Code is amended to read:

4514. (a) Unless, for good cause, the court so orders, no judgment entered pursuant to Section 4512 shall be final until six months have expired from the date of service of a copy of summons and petition or the date of appearance of the respondent, whichever occurs first. A decree declaring a marriage dissolved shall specify the date on which the decree becomes finally effective for the purpose of terminating the marriage relationship of the parties. However, if an appeal is taken from the judgment or a motion for a new trial is made, the dissolution of marriage shall not become final until such motion or appeal has been finally disposed of, nor then, if the motion has been granted or judgment reversed.

(b) Notwithstanding any other provision of law, the filing of an appeal or of a motion for a new trial shall not stay the effect of a judgment insofar as it relates to the dissolution of the marriage status restoring the parties to the status of unmarried persons, unless the appealing or moving party specifies in the notice of appeal or motion for new trial an objection to the termination of the marriage status. No party may make such objection to the termination of the marriage status unless such an objection was also made at the time of trial.

(c) Where a joint petition under Chapter 5 (commencing with Section 4550) is thereafter revoked and either party commences a proceeding pursuant to Section 4503 within 90 days from the date of filing of the revocation, the permissible date of entry of judgment pursuant to this section shall be calculated by deducting the period of time which shall have elapsed from the date of filing the joint petition to the date of filing of the revocation.

(d) The death of either party after the entry of the judgment does not impair the power of the court to enter final judgment; but the entry shall not validate any marriage contracted by either party before the entry of such final judgment, nor constitute any defense of any criminal prosecution made against either party.

(e) The court may, upon notice and for good cause shown, or on stipulation of the parties, retain jurisdiction over the date of

termination of the marital status, or may order that the marital status be terminated at a future specified date. On the date of termination of the marital status, the parties are restored to the status of unmarried persons.

SEC. 6. Section 4515 of the Civil Code is repealed.

SEC. 7. Section 4800 of the Civil Code is amended to read:

4800. (a) Except upon the written agreement of the parties, or on oral stipulation of the parties in open court, the court shall, either in its judgment of dissolution of the marriage, in its judgment decreeing the legal separation of the parties, or at a later time if it expressly reserves jurisdiction to make such a property division, divide the community property and the quasi-community property of the parties equally. For purposes of making such division, the court shall value the assets and liabilities as near as practicable to the time of trial, except that, upon 30 days' notice by the moving party to the other party, the court for good cause shown may value all or any portion of the assets and liabilities at a date after separation and prior to trial to accomplish an equal division of the community property and the quasi-community property of the parties in an equitable manner.

(b) Notwithstanding subdivision (a), the court may divide the community property and quasi-community property of the parties as follows:

(1) Where economic circumstances warrant, the court may award any asset to one party on such conditions as it deems proper to effect a substantially equal division of the property.

(2) As an additional award or offset against existing property, the court may award, from a party's share, any sum it determines to have been deliberately misappropriated by such party to the exclusion of the community property or quasi-community property interest of the other party.

(3) If the net value of the community property and quasi-community property is less than five thousand dollars ($5,000) and one party cannot be located through the exercise of reasonable diligence, the court may award all such property to the other party on such conditions as it deems proper in its final judgment decreeing the dissolution of the marriage or in its judgment decreeing the legal separation of the parties.

(4) Educational loans shall be assigned to the spouse receiving the education in the absence of extraordinary circumstances rendering such an assignment unjust.

(c) Notwithstanding the provisions of subdivision (a), community property personal injury damages shall be assigned to the party who suffered the injuries unless the court, after taking into account the economic condition and needs of each party, the time that has elapsed since the recovery of the damages or the accrual of the cause of action, and all other facts of the case, determines that the interests of justice require another disposition. In such case, the community property personal injury damages shall be assigned to the respective

parties in such proportions as the court determines to be just, except that at least one-half of such damages shall be assigned to the party who suffered the injuries. As used in this subdivision, "community property personal injury damages" means all money or other property received or to be received by a person in satisfaction of a judgment for damages for his or her personal injuries or pursuant to an agreement for the settlement or compromise of a claim for such damages, if the cause of action for such damages arose during the marriage but is not separate property as defined in Section 5126, unless such money or other property has been commingled with other community property.

(d) The court may make such orders as it deems necessary to carry out the purposes of this section.

SEC. 8. Section 4800.6 of the Civil Code is amended to read:

4800.6. The judgment of dissolution of marriage, or the judgment of legal separation, shall contain the following notice: "Although an obligation based on a contract is assigned to one party as part of the division of the community, if the party to whom the obligation was assigned defaults on the contract, the creditor may have a cause of action against the other party."

SEC. 9. Section 4809 of the Civil Code is amended to read:

4809. After the entry of a judgment decreeing the dissolution of the marriage or the legal separation of the parties, or after a declaration of void or voidable marriage, or after a permanent order in any other proceeding in which there was at issue the custody, support, maintenance, or education of a minor child, no modification of such judgment, order, or decree, and no subsequent order in such proceedings shall be valid unless any prior notice otherwise required to be given to a party to the proceeding be served, in such manner as such notice is otherwise permitted by law to be served, upon the party himself. For such purpose, service upon the attorney of record shall not be sufficient.

SEC. 10. Section 5126 of the Civil Code is amended to read:

5126. (a) All money or other property received or to be received by a person in satisfaction of a judgment for damages for personal injuries or pursuant to an agreement for the settlement or compromise of a claim for such damages is the separate property of the injured person if the cause of action for such damages arose as follows:

(1) After the rendition of a decree of legal separation or a judgment of dissolution of a marriage.

(2) While either spouse, if he or she is the injured person, is living separate from the other spouse.

This subdivision shall apply retroactively to any case where the property rights of the marriage have not been finally adjudicated by a decree of dissolution or separation.

(b) Notwithstanding subdivision (a), if the spouse of the injured person has paid expenses by reason of the spouse's personal injuries from his or her separate property or from the community property,

he or she is entitled to reimbursement of his separate property or the community property for such expenses from the separate property received by his or her spouse under subdivision (a).

(c) Notwithstanding subdivision (a), if one spouse has a cause of action against the other spouse which arose during the marriage of the parties, money or property paid or to be paid by or on behalf of a party to his or her spouse of that marriage in satisfaction of a judgment for damages for personal injuries to such spouse or pursuant to an agreement for the settlement or compromise of a claim for such damages is the separate property of the injured spouse.

SEC. 11. Section 704.710 of the Code of Civil Procedure, as amended by Chapter 155 of the Statutes of 1983, is amended to read:

704.710. As used in this article:

(a) "Dwelling" means a place where a person resides and may include but is not limited to the following:

(1) A house together with the outbuildings and the land upon which they are situated.

(2) A mobilehome together with the outbuildings and the land upon which they are situated.

(3) A boat or other waterborne vessel.

(4) A condominium, as defined in Section 783 of the Civil Code.

(5) A planned development, as defined in Section 11003 of the Business and Professions Code.

(6) A stock cooperative, as defined in Section 11003.2 of the Business and Professions Code.

(7) A community apartment project, as defined in Section 11004 of the Business and Professions Code.

(b) "Family unit" means any of the following:

(1) The judgment debtor and the judgment debtor's spouse if the spouses reside together in the homestead.

(2) The judgment debtor and at least one of the following persons who the judgment debtor cares for or maintains in the homestead:

(A) The minor child or minor grandchild of the judgment debtor or the judgment debtor's spouse or the minor child or grandchild of a deceased spouse or former spouse.

(B) The minor brother or sister of the judgment debtor or judgment debtor's spouse or the minor child of a deceased brother or sister of either spouse.

(C) The father, mother, grandfather, or grandmother of the judgment debtor or the judgment debtor's spouse or the father, mother, grandfather, or grandmother of a deceased spouse.

(D) An unmarried relative described in this paragraph who has attained the age of majority and is unable to take care of or support himself or herself.

(3) The judgment debtor's spouse and at least one of the persons listed in paragraph (2) who the judgment debtor's spouse cares for or maintains in the homestead.

(c) "Homestead" means the principal dwelling (1) in which the

judgment debtor or the judgment debtor's spouse resided on the date the judgment creditor's lien attached to the dwelling, and (2) in which the judgment debtor or the judgment debtor's spouse resided continuously thereafter until the date of the court determination that the dwelling is a homestead. Where exempt proceeds from the sale or damage or destruction of a homestead are used toward the acquisition of a dwelling within the six-month period provided by Section 704.720, "homestead" also means the dwelling so acquired if it is the principal dwelling in which the judgment debtor or the judgment debtor's spouse resided continuously from the date of acquisition until the date of the court determination that the dwelling is a homestead, whether or not an abstract or certified copy of a judgment was recorded to create a judgment lien before the dwelling was acquired.

(d) "Spouse" does not include a married person following entry of a judgment decreeing legal separation of the parties, unless such married persons reside together in the same dwelling.

SEC. 12. 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 order or decree made appealable by the provisions of the Probate Code.

SEC. 13. Section 26826 of the Government Code is amended to read:

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

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

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

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

SEC. 14. Section 26859 of the Government Code is amended to read:

26859. At the time of filing of each initial petition for dissolution of marriage, legal separation, or nullity, the petitioner shall pay a fee of two dollars ($2) to the county clerk for the costs of complying with Chapter 6.5 (commencing with Section 10360) of Division 9 of the Health and Safety Code.

The county clerk shall pay one-half of all such fees to the State Registrar of Vital Statistics each month. The State Registrar shall transmit such sums to the State Treasurer for deposit in the General Fund.

SEC. 15. Section 10000 of the Health and Safety Code is amended to read:

10000. Each live birth, fetal death, death, and marriage which occurs in the state shall be registered as provided in this division on the prescribed certificate forms. In addition, a report of every judgment of dissolution of marriage, legal separation, or nullity decree shall be filed with the State Registrar, as provided in this division. All confidential information included in birth, fetal death, death, and marriage certificates and reports of dissolution of marriage, legal separation, or nullity which are required to be filed by this division, shall be exempt from the provision of the California Public Records Act contained in Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

SEC. 16. Section 10360 of the Health and Safety Code is amended to read:

10360. The county clerk of each county shall send a copy of every judgment of dissolution of marriage, of legal separation, and of declaration of nullity to the State Registrar monthly. If a judgment of dissolution of marriage is vacated, the county clerk shall send a copy of the order or dismissal to the State Registrar.

SEC. 17. The provisions of this act shall become operative on July 1, 1984.

SEC. 18. Section 3.5 of this bill incorporates amendments to Section 4512 of the Civil Code proposed by both this bill and AB 1391. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 4512 of the Civil Code, and (3) this bill is enacted after AB 1391, in which case Section 3 of this bill shall not become operative.

SEC. 19. 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 1160

An act to add Section 4750.5 to the Labor Code, relating to workers' compensation.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 4750.5 is added to the Labor Code, to read:

4750.5. An employee who has sustained a compensable injury and who subsequently sustains an unrelated noncompensable injury, shall not receive permanent disability indemnity for any permanent disability caused solely by the subsequent noncompensable injury.

The purpose of this section is to overrule the decision in Jensen v. WCAB, 136 Cal. App. 3d 1042.

CHAPTER 1161

An act to amend Section 24357.8 of, and to amend and renumber Section 23603 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 23603 of the Revenue and Taxation Code is amended and renumbered to read:

23606. (a) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) an amount equal to 25 percent of the fair market value of qualified charitable contributions, not to exceed the basis of the property contributed.

(b) For purposes of this section, "qualified charitable contribution" means a charitable contribution of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to any of the following:

(A) An educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is not an institution of higher education (as defined in Section 3304(f) of the Internal Revenue Code of 1954) in this state.

(B) A Department of the Youth Authority education program or school or juvenile court school.

(C) A school in a state prison or county jail.

(D) A school or educational program in a state hospital.

(2) The contribution is made not later than one year after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is a computer, scientific equipment, or apparatus all of the use of which by the donee is directly in the education of students of this state.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with these provisions.

(7) The property has the approval of the donee.

(8) The contribution is made on or after January 1, 1983, and on or before June 30, 1984.

(c) The credit shall be in lieu of any deduction under this part to which the taxpayer otherwise may be entitled, if any.

(d) In the case of a taxpayer whose credits exceed its tax liability computed under this part (except the minimum franchise tax and the tax on preference income) for the income year, the taxpayer shall be allowed a credit to the extent of that tax liability. At the election of the taxpayer, that portion of the credit which exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) may be carried over to the taxes

imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit, until the credit is used. The credit shall be applied first to the earliest income years possible.

(e) The credit shall be claimed on tax returns filed on or after July 1, 1983.

(f) The Franchise Tax Board shall prescribe regulations as may be necessary to carry out the purposes of this section.

SEC. 2. Section 24357.8 of the Revenue and Taxation Code is amended to read:

24357.8. (a) In the case of a qualified research contribution, the amount otherwise allowed as a deduction under Section 24357, shall be reduced by that amount of the reduction provided by Section 24357.1 which is no greater than the sum of the following:

(1) One-half of the amount computed pursuant to Section 24357.1 (computed without regard to this paragraph).

(2) The amount (if any) by which the charitable contribution deduction under this section for any qualified research contribution (computed by taking into account the amount determined by paragraph (1), but without regard to this pararaph) exceeds twice the basis of the property.

(b) For purposes of this section, "qualified research contribution" means a charitable contribution by a taxpayer of tangible personal property described in paragraph (1) of Section 1221 of the Internal Revenue Code of 1954, but only if all of the following conditions are met:

(1) The contribution is to an educational organization which is described in subsection (b) (1) (A) (ii) of Section 170 of the Internal Revenue Code of 1954 and which is an institution of higher education (as defined in Section 3304(f) of the Internal Revenue Code of 1954) in California.

(2) The contribution is made not later than two years after the date the construction of the property is substantially completed.

(3) The original use of the property is by the donee.

(4) The property is scientific equipment or apparatus substantially all of the use of which by the donee is for research or experimentation (within the meaning of Sections 24365 to 24368, inclusive), or for research training, in physical, applied, or biological sciences, or for instructional purposes.

(5) The property is not transferred by the donee in exchange for money, other property, or services.

(6) The taxpayer receives from the donee a written statement representing that its use and disposition of the property will be in accordance with the provisions of paragraph (5), and with respect to property substantially all of the use of which is for instructional purposes, the taxpayer receives from the donee a written statement representing that the property will be used as an integral part of the instructional program.

(7) The contribution is made on or after July 1, 1983, and on or before June 30, 1985.

(c) For purposes of this section, the term "taxpayer" shall not include a service organization (as defined in Section 414(m)(3) of the Internal Revenue Code of 1954).

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, Section 2 of this act shall be applied to income years beginning on and after July 1, 1983.

CHAPTER 1162

An act to amend Sections 224s and 227 of, and to add Sections 224t, 224u, and 224v to, the Civil Code, relating to adoptions.

[Approved by Governor September 27, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. This act shall be known and may be cited as "The Adoption Information Act of 1983."

SEC. 2. The Legislature finds and declares that once parental rights have been terminated and a child is legally free for adoption, all contacts between an adoptee and his or her birth parents, usually are permanently severed. When this occurs, often there is no effective way to reestablish contact because of cost problems, tracing difficulties, and the confidentiality of records.

In this regard, the Legislature recognizes that in order to provide adequate and timely medical care for an adoptee, an adopting parent needs complete medical background information on both the adoptee and the adoptee's birth parents, not only to secure timely and appropriate medical care for the adoptee but to make vital personal, health, and family decisions.

Furthermore, the Legislature also recognizes that as a result of the permanent severence of the relationship between the adoptee and his or her birth parents, the adoptee also may suffer substantial emotional or physical illness resulting from an inability to satisfy personal needs concerning his or her origins, self-identity, and family medical history.

Accordingly, it is the purpose of this act to insure that complete medical background information of both a routine and nonroutine nature, if available, with regard to both the adoptee and the adoptee's birth parents is transmitted to the adopting parents at the time the adoptee is placed for adoption and that the medical background information is also available to the adoptee when he or she reaches 21 years of age or is emancipated by reason of marriage. It is also the purpose of this act to establish a procedure whereby a

birth parent may petition the State Department of Social Services for disclosure of the identity and last known address of his or her son or daughter who has been adopted and who has reached the age of 21; whereby an adoptee who has attained the age of 21 may petition for the identity and last known address of his or her birth parent; and where the adoptive parent of an adoptee who is under the age of 21 may petition on behalf of the adoptee for the identity and last known address of the adoptee's birth parent, while providing safeguards respecting the right of privacy of all of such persons.

It is the intention of the Legislature that the costs incurred by the State Department of Social Services for programs established by subdivision (b) of Section 227 of the Civil Code shall be supported entirely by the Adoption Information Fund. It is the intention of the Legislature that costs incurred by licensed adoption agencies pursuant to programs established by this act shall be funded by fees charged by those agencies for services required by those programs.

SEC. 3. Section 224s of the Civil Code is amended to read:

224s. (a) No agency shall place a child for adoption unless a written medical report on the child's medical background, and if available, so far as ascertainable, the medical background of the child's birth parents, has been submitted to the prospective adopting parents and the prospective adoptive parents have acknowledged in writing the receipt of such report.

The report on the child's background shall contain all known diagnostic information, including current medical reports on the child, psychological evaluations, and scholastic information, as well as all known information regarding the child's developmental history and family life.

In cases of adoption in which no agency licensed to place children for adoption is a party the report shall be made by the State Department of Social Services or delegated county agency as part of the study required by Section 226.2. The report shall be submitted to the prospective adopting parents who shall acknowledge its receipt in writing.

(b) The State Department of Social Services shall adopt regulations specifying the form and content of the report required by this section. In addition to any other material that may be required by the department, the form shall include inquiries designed to elicit information on any illness, disease, or defect of a genetic or hereditary nature. All licensed adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to adoptees or adoptive parents of pertinent medical information reported to the department or the licensed agency, upon the request of the person reporting the medical information.

(c) The requirements of this section shall not apply to stepparent or intercountry adoptions.

SEC. 4. Section 224t is added to the Civil Code, to read:

224t. Notwithstanding any other provision of law, the State

Department of Social Services or the licensed adoption agency which made the report required by Section 224s shall, upon the request of a person who has been adopted pursuant to this chapter and who has attained the age of 21 or who presents a certified copy of his or her marriage certificate, or upon the request of the adoptive parent of a person under the age of 21 who has been adopted pursuant to this chapter, provide that person with a copy of the medical report required by Section 224s in the manner that the department shall prescribe by regulation. A person who is denied access to a medical report pursuant to the regulations adopted pursuant to this section may petition the superior court for review of the reasonableness of the department's or licensed adoption agency's decision. The names and addresses of any persons contained in the report shall be removed therefrom unless the person requesting the report has previously received the information pursuant to Section 227s.

The department or licensed adoption agency may charge a reasonable fee, in an amount established by the department, to cover the costs of processing requests generated as a result of Section 227. The revenue resulting from the fees so charged shall be utilized by the department or licensed adoption agency to increase existing staff as needed to process these requests. Fees received by the department shall be deposited in the Adoption Information Fund. This revenue shall be in addition to any other funds appropriated in support of the state adoption program.

The department or licensed adoption agency shall waive the fees authorized by this section for any person who is receiving public assistance pursuant to Part 3 (commencing with Section 11000) of Division 9 of the Welfare and Institutions Code.

SEC. 5. Section 224u is added to the Civil Code, to read:

224u. Whenever the parental rights of a birth parent are terminated pursuant to Section 232 or 7017, the public agency initiating the action under Section 232, or in cases in which the action was not initiated by a public agency, the State Department of Social Services, and, in cases in which the parental rights were terminated under Section 7017, the licensed agency to whom the child has been or is to be relinquished, or in cases in which the child has not or is not to be relinquished to a licensed agency, the State Department of Social Services, shall send a written notice to the birth parent, if his or her address is known, which shall contain the following statement:

"You are encouraged to keep the agency sending you this letter informed of your current address in order to permit a response to any inquiry concerning medical or social history."

SEC. 6. Section 224v is added to the Civil Code, to read:

224v. (a) The State Department of Social Services shall adopt a statement to be presented to the birth parents and adoptive parents at the time the relinquishment or consent to adoption is signed which shall, in a clear and concise manner, in words calculated to assure the confidence of the birth parent in the integrity of the adoption process, communicate to the birth parent of a child that is

the subject of an adoption petition all of the following facts:

(1) It is in the best interest of the child that the birth parent keep the department or the licensed adoption agency to whom the child was relinquished for adoption informed of any health problems that the parent develops that could affect the child.

(2) It is extremely important that the birth parent keep his or her address current with the department or the licensed adoption agency to whom the child was relinquished for adoption in order to permit a response to any inquiries to the department concerning medical or social history.

(3) Section 227 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 to petition the State Department of Social Services or the licensed adoption agency that joined in the petition for his or her adoption to obtain the name and address of his or her birth parent; consequently it is of the utmost importance that the birth parent indicate whether or not he or she wishes his or her name and address to be so disclosed by checking the appropriate box provided on the form.

(4) The relinquishment or consent will be filed in the office of the county clerk of the county in which the adoption takes place and that it is not open to inspection by any persons other than the parties to the adoption proceedings, their attorneys, and the State Department of Social Services, except upon order of the judge of the superior court.

(5) The birth parent may change his or her decision as to whether or not he or she wishes his or her name and address disclosed, at any time, by sending a notarized letter to that effect, by registered mail, return receipt requested, to the State Department of Social Services or to the licensed adoption agency that joined in the petition for adoption.

(b) The State Department of Social Services shall adopt a form to be signed by the birth parents at the time the relinquishment or consent to adoption is signed which shall provide as follows:

"Section 227 of the Civil Code authorizes a person who has been adopted and who attains the age of 21 to petition the State Department of Social Services or the licensed adoption agency that joined in the petition for his or her adoption to obtain the name and address of his or her birth parent. Indicate by checking one of the boxes below whether or not you wish your name and address to be so disclosed:

☐ YES
☐ NO"
☐ UNCERTAIN AT THIS TIME; WILL NOTIFY AGENCY AT LATER DATE

SEC. 7. Section 227 of the Civil Code is amended to read:

227. (a) The person or persons desiring to adopt a child, and the child proposed to be adopted, shall appear before the court;

however, if the adoptive parent is then commissioned or enlisted in the military service, or auxiliary thereof, of the United States, or of any of its allies, or in the American Red Cross, so that it is impossible or impracticable, because of the adoptive parent's absence from the State of California, or otherwise, for him or her to make an appearance in person, and the circumstances are established by satisfactory evidence, the appearance may be made for the adoptive parent by his or her counsel, commissioned and empowered in writing so to do. The power of attorney may be incorporated in the petition for adoption. The court shall examine all persons appearing before it pursuant to this section. The examination of each such person shall be conducted separately but within the physical presence of each such other person or persons unless the court, in its discretion, shall order otherwise. The party or parties adopting shall execute or acknowledge an agreement in writing that the child shall be treated in all respects as the lawful child of the party or parties. If satisfied that the interest of that child will be promoted by the adoption, the court may thereupon make and enter a decree of adoption of the child by the adopting parent or parents, and the child and the adopting parents shall thereupon and thereafter sustain toward each other the legal relationship of parent and child and have all the rights and be subject to all the duties of that relation. In a case where the adopting parent is permitted to appear by counsel, the agreement may be executed and acknowledged by the counsel for the absent party, or may be executed by the absent party before a notary public, or any other person authorized to take acknowledgments including the persons authorized by Sections 1183 and 1183.5. In any case where the adoptive parent is permitted to appear by counsel, or otherwise, the court may, in its discretion, cause an examination of the adoptive parent, other interested party, or witness to be made upon deposition, as it deems necessary. The deposition shall be taken upon commission, as prescribed by the Code of Civil Procedure, and the expense thereof shall be borne by the petitioner. The petition, relinquishment, agreement, order, report to the court from any investigating agency, and any power of attorney and deposition shall be filed in the office of the county clerk and shall not be open to inspection by any other than the parties to the action and their attorneys and the State Department of Social Services, except upon the written authority of the judge of the superior court. A judge of the superior court shall not authorize anyone to inspect the petition relinquishment, agreement, order, report to the court from any investigating agency, or power of attorney or deposition or any portion of any such documents except in exceptional circumstances and for good cause approaching the necessitous. The petitioner may be required to pay the expenses for preparing the copies of the documents to be inspected.

Upon written request of any party to the action and upon the order of any judge of the superior court, the county clerk shall not provide any documents referred to in this section for inspection or copying

to any other person, unless the name of the birth parents of the child or any information tending to identify the birth parents of the child is deleted from the documents or copies thereof.

Upon the request of the adoptive parents or the child, a county clerk may issue a certificate of adoption which states the date and place of adoption, the birthday of the child, the name of the adoptive parents, and the name which the child has taken. Unless the child has been adopted by a stepparent, the certificate shall not state the name of the birth parents of the child.

The provisions of this section permitting an adoptive parent, who is commissioned or enlisted in the military service, or auxilary thereof, of the United States, or of any of it allies, or in the American Red Cross, to make an appearance through his or her counsel, commissioned and empowered in writing to do so, are equally applicable to the spouse of an adoptive parent who resides with the adoptive parent outside of this state.

Where, pursuant to this section, neither adoptive parent need appear before the court, the child proposed to be adopted need not appear. If the law otherwise requires that the child execute any document during the course of the hearing, the child may do so by and through counsel. Where none of the parties appear, no order of adoption shall be made by the court until after a report has been filed with the court pursuant to Section 226.6.

(b) The State Department of Social Services or a licensed adoption agency shall, (1) upon request of a person who has been adopted pursuant to this chapter and who has attained the age of 21, disclose the identity of the birth parent or parents of the person and the most current address of the birth parent or parents as shown in the records of the department or licensed adoption agency, if the birth parent or parents have indicated consent to the disclosure in writing; and (2) upon request of the birth parent of a person who has been adopted pursuant to this chapter and who has attained the age of 21, disclose the adopted name of the adoptee and his or her most current address as shown in the records of the department or licensed adoption agency if the adult adoptee has indicated in writing, pursuant to the registration program developed by the State Department of Social Services, that he or she wishes his or her name and address to be disclosed. The department or licensed adoption agency also shall disclose the identity of a birth parent and his or her most current address as shown in the records of the department or licensed adoption agency upon the request of the adoptive parent of a person under the age of 21 who has been adopted pursuant to this chapter, upon the finding by the department that a medical necessity or other extraordinary circumstances justify the disclosure.

The department may charge a reasonable fee to cover the costs of processing these requests, to be deposited in the Adoption Information Fund.

The form of the request required by this section shall be prescribed by the State Department of Social Services, shall provide

for an affidavit to be executed by the requester that to the best of his or her knowledge he or she is an adoptee; that he or she is the birth parent of an adoptee; or that he or she is the adoptive parent of an adoptee. The department may adopt regulations requiring such additional means of identification from a requester as it deems necessary. The request shall advise an adoptee that if he or she so consents, his or her adoptive parents will be notified of the filing of the request prior to the release of the name and address of his or her birth parent.

The provisions of this subdivision shall not be applicable where a birth parent or an adoptee has indicated that he or she does not wish his or her name or address to be disclosed.

The department shall either respond to a request for information pursuant to this section or forward the request to a licensed adoption agency pursuant to subdivision (c) within 20 working days of its receipt of the request.

(c) The department may forward requests for information pursuant to this section to any licensed adoption agency that was a party to the adoption.

(d) Notwithstanding any other provision of law, the department shall announce the availability of the present method of arranging contact among an adult adoptee, his or her birth parent, and any living adoptive parent authorized by Section 230.6 utilizing a means of communication appropriate to effectively inform the public.

SEC. 8. The State Department of Social Services shall adopt regulations governing the timely release of medical information pursuant to Section 224t of the Civil Code by January 1, 1985. The regulations shall provide for a special procedure for the release of information that it deems likely to cause emotional trauma in a reasonable person. The regulation shall provide that if the information would cause such emotional trauma, and if the requester is a person who has attained the age of 21, the department or licensed adoption agency shall inform the requester that the report contains sensitive material and that he or she has the choice of having the report sent to himself or herself or to a medical professional of his or her choice. The regulations also shall provide that if the requester is a person under the age of 21, the department or licensed adoption agency shall inform the requester that the report contains sensitive material and that the report may only be released to a medical or mental health professional of his or her choice. The regulations shall define "medical or mental health professional" to include a physician and surgeon, a clinical psychologist, a licensed clinical social worker, a person employed as a social worker by a county, and a marriage, family, and child counselor. The regulations shall also provide that any medical information submitted to the department or licensed adoption agency by a birth parent after the filing of the medical report required by Section 224s shall also be transmitted to a requester pursuant to Section 224t.

SEC. 9. There is established in the State Treasury the Adoption

Information Fund. All money in the fund shall be available for appropriation by the Legislature to the State Department of Social Services exclusively for the support of the costs incurred by the State Department of Social Services pursuant to the programs established by subdivision (b) of Section 227 of the Civil Code. The funds may be transferred to and in augmentation of the State Department of Social Services support item in the Budget Act or the adoptions local assistance item for reimbursement of expenditures related to this act in such amounts as the Director of Finance may authorize.

SEC. 10. Sections 2, 4, 5, 6, and 7 of this act shall be operative January 1, 1986.

SEC. 11. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 12. The department shall develop a schedule of fees required by this act. To the extent feasible, the fees established pursuant to this act shall provide sufficient revenue to cover the total cost of the provisions of this act, including the administrative costs of the State Department of Social Services.

SEC. 13. Notwithstanding any other provision of law, the maximum liability of the state for damages caused by any act or omission of any of its officers or employees with regard to the programs authorized by this act is two hundred fifty dollars ($250) for each such act or omission.

SEC. 14. Notwithstanding any other provision of law, the maximum liability of any licensed adoption agency for damage caused by any act or omission of any of its employees with regard to the programs authorized by this act is two hundred fifty dollars ($250) for each such act or omission.

SEC. 15. The provisions of this act shall be applicable only to California adoptions.

SEC. 16. The provisions of subdivision (b) of Section 227 of the Civil Code as amended by this act shall only apply to relinquishments for or consents to adoption signed on or after January 1, 1984.

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 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 1163

An act to add and repeal Section 33000.5 of the Education Code, relating to the State Board of Education.

[Approved by Governor September 27, 1983. Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 33000.5 is added to the Education Code, to read:

33000.5. (a) Notwithstanding Sections 33000 and 33001, the Governor shall also appoint a student member to the State Board of Education, with the advice and consent of two-thirds of the Senate.

(b) Notwithstanding subdivisions (c) and (d) the incumbent student member on January 1, 1984, shall be eligible for appointment by the Governor subject to the advice and consent of two-thirds of the Senate.

(c) The term of office of the student member is one year, and shall begin on August 1. An individual may serve only one term as a student member.

(d) Notwithstanding Section 1020 of the Government Code, the student member shall be, at the time the member's one-year term commences, a student enrolled in good standing in grade 12 in a public high school. The student member shall be selected from three students recommended by the State Board of Education pursuant to subdivision (e). The student member shall be a voting member with the full rights and duties of the other 10 members of the board.

(e) The process for selecting the student member shall be as follows:

(1) The State Board of Education shall notify every school district governing board, district superintendent, high school principal, high school student activities director, and student body president by September 15 of each year that applications are being accepted for the student member's position.

(2) Applications for the student member's position shall be submitted to the State Board of Education no later than October 31 of each year.

(3) A screening committee of the State Board of Education shall select 12 semifinalists for the student member's position.

(4) The school district governing board student members shall select six candidates from the 12 semifinalists.

(5) The State Board of Education shall, by December 31 of each year, select 3 finalists for the Governor's consideration and shall rank the finalists according to their preference.

(f) This section shall become inoperative on August 1, 1986, and, as of January 1, 1987, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1987, deletes or extends the

dates on which it becomes inoperative and repealed.

CHAPTER 1164

An act to amend Sections 17052.8 and 23601.5 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Became law without Governor's signature Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 17052.8 of the Revenue and Taxation Code is amended to read:

17052.8. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039, an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. For energy conservation measures which are installed on or after August 1, 1983, the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent). The credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all energy conservation measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state income tax return for the taxable year in which the energy conservation measures were installed. However, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the energy conservation measures are installed may claim the credit in the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the

state income tax return for the taxable year in which the energy conservation measure was installed, may in any subsequent year claim an energy conservation tax credit for additional energy conservation measures installed in that tax year.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measures.

(4) (A) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the energy conservation measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

(B) In the case of a taxpayer who qualifies for a refund provided for under this subdivision, whose credits exceed tax liability computed under this part, minus all other credits provided for in this part, except the credits provided in Sections 17053.5, 17061, and 18551.1, such taxpayer shall be allowed a credit to the extent of the taxpayer's tax liability plus a refund in excess of that amount up to, or combined credit and refund equal to, the credit otherwise provided in this section. For the purposes of this subdivision, a taxpayer qualified for a refund means an individual taxpayer whose adjusted gross income is less than fifteen thousand dollars ($15,000) and married taxpayers filing joint returns whose adjusted gross income is less than thirty thousand dollars ($30,000), in the taxable year in which the credit provided in this section is claimed. This subparagraph shall not apply to taxable years beginning on or after January 1, 1982.

(5) Taxpayers who partially own and partially lease on premises in California which are owned by the taxpayer energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. For energy conservation measures which are installed on or after August 1, 1983, the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent). The credit shall not exceed one thousand five hundred dollars ($1,500) for each premises

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six

thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures, but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any energy conservation measure for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which energy conservation measures are installed, each owner shall be eligible to receive the energy conservation tax credit in proportion to his or her ownership interests in the premises. In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(d) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible. With regard to energy conservation measures installed between August 1, 1983, and December 31, 1983, no more than 50 percent of the allowable credits under this section shall be applied against the taxpayer's "net tax" for the 1983 taxable year. The remaining portion of the credit shall be carried over to succeeding taxable years until that credit is used.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a

generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(g) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed either 40 percent or 35 percent, as provided in paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (a), of the costs, notwithstanding the carryover provisions of subdivision (e).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes, and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (f):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Wall insulation.

(H) Floor insulation in premises with electrical resistance heating.

(I) Ventilation cooling fans, attic ventilators, and economizer systems.

(J) Heat pumps and water heating heat pumps (including those which use are, water, or earth as a source or sink of heat) which replace electric resistance heaters or are used in conjunction with a solar energy system.

(K) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(L) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation except as specified in subparagraph (H).

(M) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance

with this section or in regions where such a plan does not provide energy audits, and for premises, other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(N) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Evaporative coolers.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units, and (G), (H), (I), (J), (L), (M), and (N) installed in any premises, shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F), installed in premises other than multifamily dwelling units, and (K) installed in any premises shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for taxable years which begin after December 31, 1986.

Any unused credit may be used beyond the date specified on the same basis and to the same extent as permitted under the law in effect immediately prior to that date.

(7) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(8) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to

the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such an RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17208.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the taxable year in which the energy conservation measure was installed or for any prior taxable year.

(k) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(*l*) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to energy conservation measures required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (K) of paragraph (6) of subdivision (h).

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 that date, deletes or extends that date.

SEC. 2. Section 23601.5 of the Revenue and Taxation Code is amended to read:

23601.5. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (5).

(2) Except as provided in paragraphs (3) and (5), the amount of the credit allowed by this section shall be 40 percent of the cost (as defined in paragraph (7)) incurred by the taxpayer for energy conservation measures installed on premises in California which are owned by the taxpayer at the time of installation. For energy conservation measures which are installed on or after August 1, 1983,

the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent). The credit shall not exceed one thousand five hundred dollars ($1,500) for each premises. The owner of the premises on which the energy conservation measures are installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new dwellings may elect not to claim the energy conservation tax credit for any or all measures installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit, provided that the purchaser can confirm the election by a written document signed by the owner-builder or owner-developer.

The energy conservation tax credit shall be claimed in the state return for the income year in which the energy conservation measures were installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for energy conservation measures, the original purchaser of the new dwelling on which the measures are installed may claim the credit in the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the dwelling.

A taxpayer who claimed the energy conservation tax credit in the state income tax return for the year in which the energy conservation measures were installed, may in any subsequent year claim energy conservation measures installed in that year.

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, on which the cost of the measures (as defined in paragraph (7)) exceeds six thousand dollars ($6,000), the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in paragraph (7)) of the energy conservation measure.

(4) If energy conservation measures serve two or more dwelling units, the owner or owners of the dwellings shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the energy conservation measures by the number of dwelling units served by the measures, and applying the formula described in paragraph (2) or (5) to the per dwelling cost.

(5) Taxpayers who partially own and partially lease on premises in California which are owned by the taxpayer energy conservation measures from a utility or other lessor shall receive a tax credit as provided in subparagraph (A) or (B).

(A) Except as provided in subparagraph (B), the credit provided by this paragraph shall equal 40 percent of the cost (as defined in paragraph (7)) of the purchased portion and 40 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first. For

energy conservation measures which are installed on or after August 1, 1983, the percentage specified in the preceding sentence shall be 35 percent (in lieu of 40 percent). The credit shall not exceed one thousand five hundred dollars ($1,500) for each premises.

(B) In the case of premises, other than dwellings, on which the cost (as defined in paragraph (7)) incurred by the lessor exceeds six thousand dollars ($6,000), the credit provided by this paragraph shall equal 25 percent of the cost (as defined in paragraph (7)) of the purchased portion and 25 percent of the principal recovery portion (as defined in paragraph (7)) of the lease payments for the first three years of operation or until the energy conservation tax credit terminates, whichever occurs first.

(6) For purposes of computing the credit provided by this section and the basis of the property, the cost of any energy conservation measure eligible for the credit provided by this section shall be reduced by the amount of any grant or any nonreimbursable financial assistance (other than interest charges) provided by a utility or a public entity.

(7) For the purposes of computing the credit provided by this section, "cost" shall include installation charges, but shall exclude interest charges. In the case of measures which are leased, "cost" shall mean the principal recovery portion of monthly lease payments. "Principal recovery portion" means the cost incurred by the lessor in acquiring the energy conservation measures but does not include interest charges, sales taxes, or maintenance expenses.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the energy conservation tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years, with respect to which this section shall remain in effect for purposes of carrying over excess credit until such credit is used. The credit shall be applied first to the earliest years possible. With regard to energy conservation measures installed between August 1, 1983, and December 31, 1983, no more than 50 percent of the allowable credits under this section shall be applied against the taxpayer's "net tax" for the 1983 income year. The remaining portion of the credit shall be carried over to succeeding income years until that credit is used.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, adopt regulations which establish minimum standards which any item of a

generic category of energy conservation measure, as defined by this section, must meet to be eligible for an energy conservation tax credit. Such standards shall include minimum provisions for effectiveness, safety and consumer protection which are consistent with standards established pursuant to the National Energy Conservation Policy Act and other applicable federal and state law. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section. Regulations adopted by the Energy Resources Conservation and Development Commission and the Franchise Tax Board, pursuant to this section, shall be in language which is easily understood by the general public.

(e) (1) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraph (2) of subdivision (a) shall be reduced so that the combined effective credit shall not exceed either 40 percent or 35 percent, as provided in paragraph (2) and subparagraph (A) of paragraph (5) of subdivision (a), of the costs, notwithstanding the carryover provisions of subdivision (c).

(2) If a federal income tax credit is enacted for costs incurred by a taxpayer for the purchase and installation of energy conservation measures in other than dwelling units, then to the extent such credit is allowed or allowable for an energy conservation measure as defined in this section, the state credit provided in paragraphs (2) and (3) of subdivision (a) shall be reduced by the amount of such federal credit.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(3) "Premises" means land, buildings, or mobilehomes.

(4) "Dwelling" means a building used for residential purposes, and includes single-family residences, mobilehomes and individual units of apartments, condominiums, cooperatives, or other similar multiple dwellings.

(5) "Energy conservation measure" means any item with a useful life of not less than three years of one of the following generic categories which meets the minimum standards as specified pursuant to subdivision (d):

(A) Ceiling insulation.

(B) Weatherstripping of all doors and windows which lead to unheated or uncooled areas so as to effectively and reliably limit air infiltration.

(C) An external water heater insulation blanket.

(D) Low flow devices on all accessible shower heads.

(E) Caulking or sealing of all major cracks and joints and other openings in building exteriors to reduce the loss of heated or cooled air or the entry of outside air where feasible, and sealing of wall outlets.

(F) Insulation of all accessible supply and return heating and cooling system ducts and plenums which are located in unheated or uncooled areas and sealing of all duct and plenum joints with pressure-sensitive tape or mastic.

(G) Wall insulation.

(H) Floor insulation in premises with electrical resistence heating.

(I) Ventilation cooling fans; attic ventilators, and economizer systems.

(J) Heat pumps and water heating heat pumps (including those which use air, water, or earth as a source or sink of heat) which replace electric resistance heaters or are used in conjunction with a solar energy system.

(K) Covers for swimming pools or hot tubs which transmit the sun's radiation energy into the water or reduce heat loss or water evaporation.

(L) For existing dwellings, such other measures or devices as may be designated "residential energy conservation measures" approved and adopted as part of an appropriate operational Residential Conservation Service Plan pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206) and recommended as the result of an audit conducted under the auspices of such a plan. This generic category includes, but is not limited to:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of heating and cooling systems which achieve increased efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes, which substantially reduce the energy needed for space heating and cooling.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(M) For existing dwellings where there is no operational Residential Conservation Service (RCS) Plan certified in accordance

with this section or in regions where such a plan does not provide energy audits, and for premises other than dwellings:

(i) Electrical or mechanical furnace ignition systems which replace gas pilot lights.

(ii) Devices modifying the openings of restaurant food preparation appliances or heating and cooling systems so as to achieve increased energy efficiency.

(iii) Storm or thermal windows or doors for the exterior of dwellings, evaporative coolers, heat absorbing or heat reflective glazed windows and door materials, exterior shading devices, and movable insulation such as shutters or thermal drapes which substantially reduce the energy needed for space heating and cooling, and glazing materials (other than doors and windows), controls or automatic switching devices for effective use of natural light to replace electric interior lighting which result in a net energy savings.

(iv) Load management devices to reduce the direct or indirect use of electricity through interruption, storage or load limiting.

(v) Floor insulation, except as specified in subparagraph (H).

(N) For newly constructed dwellings:

(i) Storm or thermal windows or doors for the exterior of dwellings.

(ii) Evaporative coolers.

(iii) Heat absorbing or heat reflective glazed windows and door materials.

(iv) Exterior shading devices.

(v) Movable insulation such as shutters or thermal drapes.

(vi) Load management devices.

(vii) Floor insulation.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in multifamily dwelling units, and (G), (H), (I), (J), (L), (M), and (N) installed in any premises shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1985.

Energy conservation measures in the generic categories of subparagraphs (A), (B), (C), (D), (E), and (F) installed in premises other than multifamily dwelling units, and (K) installed in any premises, shall be ineligible as energy conservation measures and shall have no force or effect in the computation of taxes for income years which begin after December 31, 1986.

Any unused credit may be used beyond the date specified on the same basis and to the same extent as permitted under the law in effect immediately prior to that date.

(6) The energy conservation tax credit provided by this section shall also apply to the cost of conducting energy audits and engineering feasibility studies resulting therefrom.

(7) "Operational Residential Conservation Service Plan" means a Residential Conservation Service (RCS) Plan, developed pursuant to

the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), and which provides energy audits for measures identified in this section in accordance with the requirements of such an RCS Plan. The Energy Resources Conservation and Development Commission shall, after at least one public hearing, certify when participating utilities identified in the California Plan for the Residential Conservation Service dated January 1981, have operational RCS Plans. In the case of a publicly owned utility, a Residential Conservation Service Plan developed pursuant to the provisions of Section 210 of Title II of the National Energy Conservation Policy Act (92 Stat. 3206), shall be certified by the governing board of the publicly owned utility to be operational. Certification that a plan is operational by the commission or the governing board of a publicly owned utility shall occur only after a finding is made that audits are available to utility customers within the time specified in the appropriate approved plan.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 24349.7. In addition, the taxpayer may take depreciation pursuant to that section for the cost of an energy conservation measure in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the income year in which the energy conservation measure was installed or any prior income year.

(i) No credit shall be allowed under this section if the amount would (but for this subdivision) be less than ten dollars ($10).

(j) (1) Except as provided in paragraph (2) of this subdivision, the tax credit provided by this section shall not apply to any energy conservation measure required by state laws and regulations pursuant thereto, at the time of installation.

(2) Notwithstanding the provisions of paragraph (1), a credit shall be allowed for energy conservation measures specified in subparagraph (K) of paragraph (b) of subdivision (h).

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 that date, deletes or extends that date.

SEC. 3. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, this act shall become operative on January 1, 1984.

CHAPTER 1165

An act to add Section 22953 to the Government Code, relating to dental care plans.

[Became law without Govenor's signature. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 22953 is added to the Government Code, to read:

22953. (a) An annuitant who retired from the state and (1) who is not enrolled in a health benefits plan or a dental care plan, but who was eligible as an employee at the time of separation for retirement for enrollment in a health benefits plan, and who retired within 120 days of the date of separation or (2), who is receiving an allowance pursuant to Article 6 (commencing with Section 9359) of Chapter 3.5 of Part 1 of Division 2, may enroll in a dental care plan offered under this part.

(b) The Board of Administration of the Public Employees' Retirement System has no duty to locate or notify any annuitant who may be eligible to enroll, or to provide the name or address of any annuitant to any person, agency, or entity for the purpose of notifying annuitants who may be eligible.

SEC. 2. This act shall become operative on July 1, 1984, and only if the Legislature appropriates to the Board of Administration of the Public Employees' Retirement System, the Department of Personnel Administration and to the California State University an amount which is adequate to fund the additional costs, as determined by the board, the department, and the California State University, that are projected as a result of the enactment of this act.

CHAPTER 1166

An act to amend Sections 6305, 6305.1, 6305.2, 6306, 6311, 6312, 6313, 6316, 6325, 6326, 6327, 6329, 6331, 6332, 6342, 6355, 6360, 6361, 6363, 6365, 6367, 6375, 6376, and 8660 of, to add Sections 6365.1, 8660.3, 10217.1, 10228.1, and 10230.1 to, to repeal Sections 6365.4 and 6366 of, and to repeal and add Sections 6328, 6329.1, 6329.2, 6365.2, and 6365.3 of, the Elections Code, relating to elections.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 6305 of the Elections Code is amended to read:

6305. (a) The chairperson of the Democratic State Central Committee shall notify the Secretary of State on or before the first of February immediately preceding the presidential primary as to the number of delegates and alternates to represent the state in the next national convention of the Democratic Party.

(b) The chairperson shall notify each statewide-elected officeholder, each Member of the Legislature, each United States Senator from California, and each Member of the House of Representatives from California who is affiliated with the Democratic Party as to the officeholder's right to serve as an unpledged add-on delegate to the Democratic National Convention.

(c) The chairperson shall also notify the Secretary of State at the time prescribed in subdivision (a) as to the number of delegates which may be selected from each congressional district in connection with the presidential primary. The number of delegates which may be selected from each congressional district shall be based on a formula which apportions 75 percent of the state's base delegation allocated by the Democratic National Committee, among the congressional districts in a manner which gives equal weight to the average vote for the Democratic candidates in the most recent presidential and gubernatorial elections.

The number of delegates allocated to each congressional district shall be rounded off to the nearest whole integer. The remaining delegates and alternates shall be selected pursuant to Article 10 (commencing with Section 6365).

(d) Delegates and alternates apportioned to each congressional district shall be selected by a direct vote on the presidential primary ballot pursuant to Section 6329.2.

SEC. 2. Section 6305.1 of the Elections Code is amended to read:

6305.1. (a) All persons wishing to be elected to a district-level or at-large delegate or alternate position shall file a statement of candidacy designating the presidential or uncommitted preference of the delegate candidate, and a signed pledge of support for the presidential candidate the person favors, if any, with the state party chair by a time specified by the party chair.

(b) If persons eligible for pledged party and elected official delegate positions have not made known their presidential preference under subdivision (a), their preferences shall be ascertained through alternative procedure established by the Democratic State Party. An alternative system may have a later deadline for submitting a pledge of support than the regular procedure.

(c) Any delegate candidate wishing to seek election as a recommended delegate from a congressional district caucus shall give written notification to the chair of the State Democratic Party at the time of filing a statement of candidacy.

(d) Nothing contained in this section or in any other provision of the law shall be construed as requiring a candidate, or the steering committee on behalf of a candidate, or the chair of the State Democratic Party, to convene congressional district caucuses to elect recommended delegates.

SEC. 3. Section 6305.2 of the Elections Code is amended to read:

6305.2. The proportions of alternate delegates elected at the district level, at-large, and as unpledged and pledged add-on party

and elected officials alternates shall be the same as the proportions of delegates elected in those categories.

Members of Congress selected as unpledged delegates at a Democratic Caucus of the United States House of Representatives and at a Democratic Conference of the United States Senate, as provided by Democratic National Committee Rules, shall not be entitled to name a replacement.

SEC. 4. Section 6306 of the Elections Code is amended to read:

6306. The notification of the number of delegates and alternates shall be in substantially the following form:

Statement of Number of Delegates and Alternates to Democratic National Convention and of Number of Delegates to Be Selected from Congressional Districts

To the Secretary of State
Sacramento, California

You are hereby notified that the number of delegates and alternates to represent the State of California in the next national convention of the Democratic Party is _____.

You are hereby notified that the number of delegates which may be selected from all congressional districts as a part of the delegation to the national convention of the Democratic Party is as follows:

Congressional District No. 1. _____ delegates _____ alternates.

Congressional District No. 2. _____ delegates _____ alternates.

Congressional District No. 3. _____ delegates _____ alternates.

(Followed by the remaining congressional districts).

Dated this _____ day of _____, 19__.

_____

Chairperson of the State Central Committee of the Democratic Party.

SEC. 5. Section 6311 of the Elections Code is amended to read:

6311. The Secretary of State shall place the names of delegates pledged to a candidate upon the presidential primary ballot when the Secretary of State has determined that such a candidate is generally advocated for or recognized throughout the United States or California as actively seeking the nomination of the Democratic Party for President of the United States. The Secretary of State shall include as criteria for selecting candidates the fact of qualifying for funding under the Federal Elections Campaign Act as amended in 1974.

After January 1, but on or before February 1, immediately preceding a presidential primary election, the Secretary of State shall publicly announce and distribute to the news media for

publication a list of the selected candidates. The announcement shall also state that the selected candidates shall submit delegates' names for placement on the ballot at the following presidential primary election. Following this announcement he or she may add candidates to the selection, but he or she may not delete any presidential candidate whose name appears on the announced list except as provided in Section 6313.

SEC. 6. Section 6312 of the Elections Code is amended to read:

6312. When the Secretary of State decides to recognize a candidate as selected, allowing that candidate to submit names of delegate candidates for the ballot pursuant to Section 6311, he or she shall notify the candidate that the candidate is a recognized candidate and is eligible to select a delegation for placement on the ballot of this state in the presidential primary election.

The secretary shall also notify the candidate that the candidate may withdraw his or her name from the list of recognized candidates by filing with the Secretary of State an affidavit pursuant to Section 6313. Such notification shall also inform the candidate that the affidavit shall be filed with the Secretary of State no later than two days after the Secretary of State makes the public announcement set forth in Section 6311.

SEC. 7. Section 6313 of the Elections Code is amended to read:

6313. (a) If a selected candidate or an unselected candidate files with the Secretary of State, no later than the time specified in Section 6312, an affidavit stating without qualification that he or she is not now a candidate for the office of President of the United States, and stating that similar documents, also without qualification, have been or will be timely filed, where applicable, with the appropriate public election official in all other states holding open presidential primaries, such candidate's name shall be omitted from the list of names certified by the Secretary of State as eligible to select a delegation for placement on the ballot of this state in the presidential primary election.

(b) If a selected candidate or an unselected candidate fails to file a slate of delegate candidates for a congressional district, as provided in Section 6329.2, that candidate shall be omitted from the list of names certified by the Secretary of State to the appropriate county clerks for that congressional district ballot and delegate names pledged to that candidate shall not appear on that ballot.

SEC. 8. Section 6316 of the Elections Code is amended to read:

6316. Any unselected candidate or uncommitted delegation desiring to be placed on the presidential primary ballot shall have nomination papers circulated on behalf of the candidacy. In order to qualify for placement on the presidential primary ballot, the candidate's or uncommitted delegation's nomination papers shall be signed by voters registered as affiliated with the Democratic Party equal in number to not less than 1 percent or 500, whichever is fewer, in each congressional district of the number of persons registered as members of the Democratic Party in the report of registration issued

by the Secretary of State in January of the presidential primary year.

The unselected candidates or uncommitted delegations shall meet the statewide signature requirements from each congressional district in order to be eligible to select a delegation for placement on the ballot in any one congressional district.

SEC. 9. Section 6325 of the Elections Code is amended to read:

6325. Each selected candidate and each candidate who seeks to qualify under Article 4 (commencing with Section 6315) of this chapter and each group proposing an uncommitted delegation shall appoint a steering committee of seven members and shall appoint one of the members to serve as chairperson.

SEC. 10. Section 6326 of the Elections Code is amended to read:

6326. The chairperson of a steering committee, at least 85 days prior to the presidential primary, shall file with the Secretary of State a statement containing the names and addresses of the members of the committee.

SEC. 11. Section 6327 of the Elections Code is amended to read:

6327. Each steering committee shall be responsible for the circulation of nomination papers of candidates who seek to qualify under Article 4 (commencing with Section 6315) of this chapter and groups proposing uncommitted delegations, including the appointment of verification deputies. Each steering committee shall perform the duties required of it by this chapter.

SEC. 12. Section 6328 of the Elections Code is repealed.

SEC. 13. Section 6328 is added to the Elections Code, to read:

6328. A candidate for district-level delegate shall reside in the congressional district from which he or she wishes to be selected as a delegate, shall be a member of the Democratic Party, and shall sign a declaration pledging his or her support for that presidential candidate or uncommitted delegation before he or she becomes a bona fide candidate for delegate.

The Democratic State Central Committee shall make these declarations available to the steering committee of each presidential candidate or uncommitted delegation.

The pledge of support shall be in substantially the following form:

Declaration of Candidate for Delegate

I, _____, reside and am registered to vote as a Democrat at No. _____ Street, in the City (or town) of _____, County of _____, in the _____ congressional district, State of California.

I pledge my support if elected as a delegate to the _____ Democratic National Convention to _____.

(This statement of preference shall be omitted where the candidate for delegate is part of a group expressing no preference as to a particular candidate.)

I express no preference as to a particular candidate. The Chairperson of my group is _____. (This statement

shall be omitted where the candidate for delegate is part of a group preferring a particular candidate.)

As a delegate, I shall, in all good conscience, reflect the sentiments of those who elected me.

Date _____ Place _____

Signed _____

SEC. 14. Section 6329 of the Elections Code is amended to read:

6329. Immediately upon the close of the filing date for delegate and alternate candidates, the Democratic State Central Committee shall transmit to the steering committee of each presidential candidate and uncommitted delegation a list of all persons who have filed for delegate or alternate positions pledged to that presidential candidate or uncommitted delegation. The list shall indicate those delegates who wish to seek election as recommended delegates from congressional district caucuses. All such delegate candidates and alternate candidates shall be considered bona fide supporters of the presidential candidates or uncommitted delegations that they have pledged to support, unless the steering committee provides otherwise in writing to the Democratic State Central Committee by the time specified in the delegate selection and affirmative action plan.

Delegate and alternate candidates removed from the list of bona fide supporters by the steering committee of a presidential candidate or uncommitted delegation may not be elected as a delegate or alternate pledged to that presidential candidate or uncommitted delegation.

Except as provided in this section, no delegate or alternate candidate may be removed from the list of bona fide supporters, with respect to at-large and elected official delegates and alternates, unless at least three names remain for each delegate or alternate position to which each presidential or uncommitted delegation is entitled.

The presidential candidate or that candidate's authorized representative may approve a number of delegates equal to or greater than the number of delegates or alternates allocated to each congressional district.

SEC. 15. Section 6329.1 of the Elections Code is repealed.

SEC. 16. Section 6329.1 is added to the Elections Code, to read:

6329.1. Presidential candidates or their steering committees shall take steps to ensure public participation in the delegate selection process, which may include, but need not be limited to, the convening of congressional district caucuses to recommend delegate candidates, the distribution of information to statewide and community press, informing Democratic electors of the procedures for delegate candidacy, the circulation of statement of candidacy forms, and additional steps necessary to achieve the representational goals established in the California Democratic Party's Affirmative Action Plan.

No provision of the law shall be construed as a constraint on the right of the candidate, or the steering committee on behalf of the candidate, to select delegates, at any level, whether or not recommended by a caucus.

SEC. 17. Section 6329.2 of the Elections Code is repealed.

SEC. 18. Section 6329.2 is added to the Elections Code, to read:

6329.2. (a) Delegates and alternates apportioned to each congressional district shall be voted upon directly on the presidential primary ballot. Each delegate candidate shall be identified on the ballot according to his or her presidential or uncommitted preference.

(b) The chairperson of each steering committee in consultation with the Chairperson of the State Democratic Party, shall select a slate of delegate nominees in each congressional district equal to the number of delegates and alternates to be voted upon at the primary. The slate of delegates shall be ranked and selected according to the State Democratic Party's Affirmative Action Plan and equal division requirements. The chairperson of each steering committee shall, on or before the first Wednesday following the second Sunday in March preceding the presidential primary election, transmit the slate of delegates and alternates to the Secretary of State and each county clerk or registrar of voters.

(c) The delegate candidates receiving the highest number of votes in each district equal to the number of delegates and alternates to which that congressional district is entitled shall be deemed the elected delegates and alternates, respectively, for that district. The elected delegates shall be ranked in order of vote totals, and the higher ranking delegates equal to the number of delegates to which that congressional district is entitled shall be deemed delegates and the lower ranking delegates equal to the number of alternates to which that congressional district is entitled shall be deemed alternate delegates.

SEC. 19. Section 6331 of the Elections Code is amended to read:

6331. Nomination papers to be circulated pursuant to Section 6316 shall be prepared, circulated, signed and verified and shall be left for examination with the county clerk of the county in which they are circulated at least 94 days prior to the presidential primary.

SEC. 20. Section 6332 of the Elections Code is amended to read:

6332. Upon the filing of nomination papers pursuant to Section 6316 signed by the required number of voters, the candidate or uncommitted delegation named in the papers shall be eligible to select a delegation for placement on the ballot which shall be voted upon in the presidential primary election.

SEC. 21. Section 6342 of the Elections Code is amended to read:

6342. Circulators may obtain signatures to the nomination paper for which they were appointed, at any time not before February 1 nor after 94 days prior to the presidential primary.

SEC. 22. Section 6355 of the Elections Code is amended to read:

6355. At least 87 days before a presidential primary, the Secretary

of State shall notify each steering committee whether or not it has qualified a candidate or uncommitted delegation for placement on the ballot pursuant to Section 6315.

SEC. 23. Section 6360 of the Elections Code is amended to read:

6360. At least 59 days before a presidential primary, the Secretary of State shall transmit to each county clerk a certified list containing the name of each candidate who is entitled to be voted for on the ballot at the presidential primary, and the name of each chairperson of a steering committee of an uncommitted delegation and the names of the delegates who are entitled to be voted for on the same ballot.

If no uncommitted delegation has qualified pursuant to Article 4 (commencing with Section 6315), the Secretary of State shall inform the county clerks to provide for an uncommitted delegate space on the ballot.

The certified list shall be in substantially the following form:

Certified List of Delegates Pledged to Presidential Candidates and Delegates Representing Uncommitted Delegations

To the County Clerk of _____ County:

I, _____, Secretary of State, do hereby certify that the following list contains the name of each person who is entitled to be voted for as a delegate pledged to a Democratic Party presidential candidate at the presidential primary election to be held on the _____ day of June, 19__, and the name of each chairperson of a steering committee of an uncommitted delegation and the names of each person entitled to be voted for on the ballot as an unpledged delegate representing an uncommitted delegation.

1st Congressional District

Delegates Pledged to Presidential Candidate Mary Adams

_____
_____
_____
_____
_____
_____

Delegates Pledged to Presidential Candidate Joe Black

_____
_____
_____
_____

_____
_____

Delegates Representing Unpledged Delegation
Chairperson Frank Smith

_____
_____
_____
_____
_____
_____

Dated at Sacramento, California, this _____ day of _____, 19__.

_____
(SEAL) Secretary of State

SEC. 24. Section 6361 of the Elections Code is amended to read:

6361. Immediately after the county clerk receives the certified list of presidential candidates from the Secretary of State, he or she shall publish it in a presidential primary notice, under the proper party designation. The notice shall also contain:

(a) The date of the election.

(b) The hours during which the polls will be open.

SEC. 25. Section 6363 of the Elections Code is amended to read:

6363. The notice of the list of presidential candidates and uncommitted delegations published by the county clerk shall be in substantially the following form:

Notice by County Clerk of Time and Place of Presidential Primary Election, and Names of Democratic Presidential Candidates and Uncommitted Delegations.

Notice is hereby given that the presidential primary election is to be held in the County of _____ on the _____ day of June, 19__, and that hereinafter there is stated the name of each person and each uncommitted delegation which is entitled to place a slate of delegates to be voted for on the ballot at the election.

List of Presidential Candidates and Uncommitted Delegations

Democratic Party

Mary Adams
Joe Black
John P. Monroe
Unpledged delegation
Frank Smith,

Chairperson

Notice is also hereby given that at the presidential primary the polls will be open from 7 a.m. to 8 p.m. on the day thereof.

Dated this _____ day of _____, 19__.

_____, County Clerk

SEC. 26. Section 6365 of the Elections Code is amended to read:

6365. On or before the Wednesday preceding the third Saturday following the presidential primary election, the Secretary of State shall announce the names of the congressional district delegates and alternate delegates elected by the presidential primary vote and the number of at-large and add-on delegates to which each candidate or uncommitted delegation is entitled.

SEC. 27. Section 6365.1 is added to the Elections Code, to read:

6365.1. For purposes of determining and announcing the names of the congressional district delegates pursuant to Section 6365 the following, when applicable, shall control:

(a) In the case of a tie vote for the last delegate position between delegate nominees pledged to the same presidential candidate, the candidate's steering committee shall select the delegate deemed elected, based upon the Democratic Party's affirmative action plan and equal division requirement.

(b) In the case of a tie vote for the last delegate position between delegate nominees pledged to different presidential candidates, the Secretary of State shall determine the tie vote by lot pursuant to subdivision (a) of Section 20501.

(c) When a tie vote is resolved pursuant to subdivision (a) or (b), the unselected delegate shall be considered the next highest in vote totals and, therefore, deemed elected to the first alternate delegate position.

(d) In the case of a tie vote for the last alternate delegate position, the appropriate tie-breaking procedure set forth in subdivision (a) or (b) shall be applied.

SEC. 28. Section 6365.2 of the Elections Code is repealed.

SEC. 29. Section 6365.2 is added to the Elections Code, to read:

6365.2. (a) Twenty-five percent of the state's base delegation shall be elected at-large. In addition, elected and party officials who are pledged or unpledged shall be selected as add-on delegates in the manner provided in this article.

(b) At-large and pledged add-on delegates shall be awarded to candidates proportionately according to the division of preferences among district level delegates as directly determined by the presidential primary vote.

On or before the second Saturday following the presidential primary election, the State Democratic Party shall transmit to the steering committee of each presidential candidate or uncommitted delegation a list of the persons who have filed for party and elected official, at-large, and alternate delegate positions pledged to that

presidential candidate or uncommitted delegation. All delegate candidates and alternate candidates shall be considered bona fide supporters, unless rejected in accordance with the provisions set forth in Section 6329.

On or before the third Saturday following the presidential primary election, the steering committees of the candidates and uncommitted delegations and the congressional district delegates shall meet in a state convention at the time and place specified by the Chairperson of the Democratic State Central Committee in consultation with the chairperson of each steering committee, to elect unpledged add-on delegates, and pledged add-on, at-large and alternate delegates. The Executive Compliance Committee and the steering committees of the candidates shall review the composition of the congressional district-level delegation, for purposes of evaluating compliance with the State Democratic Party Affirmative Action Plan and equal division requirements.

With respect to the unpledged delegates, the Democratic leader of the Senate and the Democratic leader of the Assembly, shall recommend a slate of delegates in accordance with the selection procedure priorities provided in this article, to be voted upon by the state convention.

For purposes of the preceding paragraph, the Democratic leader of the Senate shall be a Democrat who holds the position of President pro Tempore of the Senate or Senate Minority Floor Leader, as the case may be. The Democratic leader of the Assembly shall be a Democrat who holds the position of Speaker of the Assembly or Assembly Minority Floor Leader, as the case may be.

With respect to pledged delegates and alternates, the steering committees of the presidential candidates shall approve delegate candidates in accordance with the provisions set forth in Section 6329. The Executive Compliance Committee shall review the list of qualified delegate candidates and recommend delegate slates in accordance with selection procedure priorities provided in this article, to be voted upon by state convention delegates pledged to the respective candidates. The Chairperson of the State Democratic Party shall serve as chairperson of the convention until the selection process is completed.

For purposes of this section, the Executive Compliance Committee shall consist of six members. Three members shall be selected by the Democratic Caucus of the State Senate and three members shall be selected by the Democratic Caucus of the State Assembly.

SEC. 30. Section 6365.3 of the Elections Code is repealed.

SEC. 31. Section 6365.3 is added to the Elections Code, to read:

6365.3. (a) Prior to the selection of at-large delegates, the state convention shall select party leaders and elected officials to serve as unpledged and pledged add-on delegates. Pledged add-on delegates shall be equal in number to 10 percent of the total number of base delegates, and the add-on delegates shall be selected from party

leaders and elected officials.

(b) The selection process to be used in selecting unpledged party and elected official "add-on" delegates shall be as follows:

(1) The State Chairperson and Vice Chairperson of the State Democratic Party shall serve as unpledged members of the delegation.

(2) After receipt from the Democratic National Committee of names of Members of Congress selected to serve as members of the unpledged delegation, the state convention shall select the balance of the unpledged delegation, in the following priority order of consideration:

(A) Democratic Governor and Democratic large-city mayors.

(B) Statewide elected officials; state legislators; members of the Democratic National Committee not previously selected; Members of Congress not previously selected; and other party and elected officials.

(C) In selecting these delegates, the state convention shall include women and minorities.

(c) Following the selection of unpledged add-on delegates, pledged party and elected official delegates are to be selected subject to the following procedures:

(1) Persons shall be considered for these positions in the same priority order as set forth in paragraph (2) of subdivision (b).

(2) Delegate slots shall be allocated according to the apportionment specified in Section 6365.2.

(3) Persons seeking these delegate slots shall sign a pledge of support for a presidential candidate.

(d) Following the selection of add-on delegates, the state convention shall select at-large delegates and delegate alternates.

Persons shall be selected as at-large delegates, subject to the requirement that at-large delegates positions shall be used, if necessary, to achieve equal division of positions between men and women and the representational goals established in the State Democratic Party's affirmative action plan, in the following priority order of consideration:

(1) State legislators and statewide elected officials who have not previously been selected.

(2) Members of Congress and party officials who have not previously been selected.

(3) District-level recommended delegate candidates who have not previously been selected.

(4) Other persons eligible for at-large delegate positions.

(e) The delegation so formed shall thereafter select a chairperson and other officers of the delegation, select convention committee members, and proceed with such other business as they may choose to conduct.

SEC. 32. Section 6365.4 of the Elections Code is repealed.

SEC. 33. Section 6366 of the Elections Code is repealed.

SEC. 34. Section 6367 of the Elections Code is amended to read:

6367. Within five days after the convention held pursuant to Section 6365, the chairperson of the delegation shall notify the Secretary of State of the names and addresses of the delegates and alternates selected at the postprimary convention. The delegates filed shall be the final delegates as determined by the official canvass as reported pursuant to Section 17090. The chairperson of the delegation shall file with the Secretary of State affidavits executed by all such delegates and alternates in substantially the same form provided for in Section 6328.

SEC. 35. Section 6375 of the Elections Code is amended to read:

6375. Notwithstanding any other provision of law, a space shall be provided on the presidential primary ballot for a voter to write in the name of a delegate nominee for election as an unpledged delegate.

SEC. 36. Section 6376 of the Elections Code is amended to read:

6376. Any person who believes his or her name may be used as a write-in candidate for unpledged delegate shall, not later than 21 days before the primary election, file for endorsement of his or her write-in candidacy with the Secretary of State, or no votes shall be counted for him or her.

SEC. 37. Section 8660 of the Elections Code is amended to read:

8660. The state central committee shall consist of:

(a) One member for each of the following elective officials:

(1) Governor.

(2) Lieutenant Governor.

(3) Treasurer.

(4) Controller.

(5) Attorney General.

(6) Secretary of State.

(7) All members of the State Board of Equalization.

(8) All Senators and Representatives of Congress from California.

(9) All Members of the State Legislature.

(b) Members elected by county central committees pursuant to this part.

(c) Members appointed pursuant to this part.

(d) The national committeemen and national committeewomen of the party.

(e) Any person elected to fill a vacancy in the State Legislature in a special election.

(f) Such immediate past party officers as may be provided by party bylaws.

(g) Members elected by Assembly district caucuses pursuant to this part.

(h) The President of the California Democratic Council and the President of the Federation of Young Democrats.

(i) Former elected, nonjudicial statewide officeholders as described in Section 8660.3.

SEC. 38. Section 8660.3 is added to the Elections Code, to read:

8660.3. Any person who held any of the offices described in paragraphs (1) to (6), inclusive, of subdivision (a) of Section 8660 or

held the Office of Superintendent of Public Instruction and who at the time of filing his or her nomination documents for the particular statewide office was, as indicated by the person's affidavit of registration, affiliated with the Democratic Party shall be a member of the state central committee.

Former officeholders entitled to committee membership under this section shall serve on the committee for that length of time equal to the time in which the officeholders served in the particular statewide office.

SEC. 39. Section 10217.1 is added to the Elections Code, to read:

10217.1. (a) With respect to the Democratic Presidential Primary Ballot, delegate candidates, presidential candidates, and uncommitted delegations shall be listed and identified on the ballot as provided in this section.

(b) The delegate candidates shall be listed on the ballot so that all those delegate candidates who are pledged to the same presidential candidate or the same uncommitted delegation are grouped together on the ballot with that candidate or uncommitted delegation.

(c) The names of delegate candidates shall be permanently arranged on the ballot in the order determined by the chairperson of the particular steering committee in accordance with subdivision (b) of Section 6329.2. Notwithstanding subdivision (a) of Section 10216 or Section 10217, that order of names shall remain the same on the ballot for each Assembly district.

(d) Groups of delegate candidates shall be arranged on the primary election ballot by the Secretary of State by the name of the presidential candidate or, in the case of unpledged delegation, by the name of the chairperson in accordance with the randomized alphabet as provided in Section 10217 in the case of the ballots for the First Assembly District. Thereafter, for each succeeding Assembly district, the group of delegates appearing first in the last preceding Assembly district shall be placed last, the order of the other group of delegates remaining unchanged.

SEC. 40. Section 10228.1 is added to the Elections Code, to read:

10228.1. (a) Notwithstanding any other provision of law to the contrary, with respect to the Democratic Presidential Primary Ballot only, that ballot shall be printed and shall include only that information which is prescribed or is set forth in this section.

(b) The instructions to the voters, as set forth in Section 10228, shall be modified to contain the following statement:

"To vote for a delegate candidate whose pledged presidential preference appears on the ballot in parenthesis next to the delegate's name, stamp a cross (+) in the square opposite the name of the delegate candidate.

Stamp a cross (+) after the names of all delegate candidates for whom you desire to vote, not to exceed, however, the number of delegate candidates to be elected."

(c) Notwithstanding Section 10220, in the case of delegate

candidates to the national convention, there shall be printed in boldface gothic type, not smaller than 12-point, across the column of each page and above the names of the groups of delegates, the words "President of the United States." Under the title "President of the United States," a statement shall indicate the total number of delegates listed, the number of pages of delegate listings, and the number of delegates to be elected. The words, "Vote for no more than _____ delegates" shall extend to the extreme right-hand margin of the column and over the voting square. There shall be two parallel, light lines separating groups of delegates. This portion of the ballot shall appear in the following form:

PRESIDENT OF THE UNITED STATES 28 delegates are listed on pages 1 to 3. Vote for no more than 4 of the 28 delegates.	VOTE FOR NO MORE THAN FOUR DELEGATES
Ann M. Mackey (Edward M. Kennedy)	
Pat J. Foster (Edward M. Kennedy)	
Rose King (Edward M. Kennedy)	
Eugene L. Paine (Edward M. Kennedy)	
Sandra Hughes (Unpledged Delegation)	
Paul Antilla (Unpledged Delegation)	
Sharon R. Fisher (Unpledged Delegation)	
Clay Fuller (Unpledged Delegation)	
Joyce E. Hee (Jimmy Carter)	
Tom Heuer (Jimmy Carter)	

Delegate Listing Continued on Next Page

(d) (1) Notwithstanding Section 10335 or 10338, if there are a greater number of delegate candidates than the number of whose names can be placed on one pair of facing pages, the clerk may use facing pages without having to use single sides. In addition, in printing the Democratic presidential primary portion of the ballot, the clerk shall not be required to rotate the groups of delegate candidates by precincts, and, in the case of the use of ballot cards, may split a group of candidates if the group cannot be accommodated on one ballot card.

(2) If more than one pair of facing pages is used or if more than one ballot card is used in the printing of the presidential portion of the ballot, the clerk shall cause the ballot to be marked so as to indicate that delegate candidates are contained on the following page or pages.

SEC. 41. Section 10230.1 is added to the Elections Code, to read:

10230.1. Notwithstanding any other provision of law, for the purpose of conducting the Democratic Party Presidential Primary Election, the Secretary of State may, if reasonably necessary to accommodate the limitations of a voter system or vote tabulating device, authorize the county clerks to do any or all of the following:

(a) Vary the order of any office or measure listed in Section 10213 with the exception of President of the United States, United States Representative, State Senator, Member of the Assembly, and judicial offices.

(b) Place any office listed in Section 10213 on a second ballot with the exception of United States Representative, State Senator, Member of the State Assembly, judicial offices, County Superintendent of Schools, County Board of Education Members, and county officers.

(c) Place any ballot measure, other than a state measure, on a separate ballot.

SEC. 42. 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. 43. 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 1167

An act to amend Sections 396b, 430.80, 431.10, 436, 472a, 581, 586, 589, and 658 of the Code of Civil Procedure, relating to civil procedure.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 396b of the Code of Civil Procedure is amended to read:

396b. (a) Except as otherwise provided in Section 396a, if an action or proceeding is commenced in a court having jurisdiction of the subject matter thereof, other than the court designated as the proper court for the trial thereof, under the provisions of this title, the action may, notwithstanding, be tried in the court where commenced, unless the defendant, at the time he or she answers, demurs, or moves to strike, or, at his or her option, without answering, demurring, or moving to strike and within the time otherwise allowed to respond to the complaint, files with the clerk, or with the judge if there is no clerk, a notice of motion for an order transferring the action or proceeding to the proper court, together with proof of service, upon the adverse party, of a copy of such papers. Upon the hearing of the motion the court shall, if it appears that the action or proceeding was not commenced in the proper court, order the action or proceeding transferred to the proper court.

(b) In its discretion, the court may order the payment to the prevailing party of reasonable expenses and attorney's fees incurred in making or resisting the motion to transfer whether or not that party is otherwise entitled to recover his or her costs of action. In determining whether such order for expenses and fees shall be made, the court shall take into consideration (1) whether an offer to stipulate to change of venue was reasonably made and rejected, and (2) whether the motion or selection of venue was made in good faith given the facts and law the party making the motion or selecting the venue knew or should have known. As between the party and his or her attorney, such expenses and fees shall be the personal liability of the attorney not chargeable to the party.

(c) The court in a proceeding for dissolution of marriage or legal separation, may, prior to the determination of the motion to transfer, consider and determine motions for allowance of temporary alimony, support of children, counsel fees and costs, and make all necessary and proper orders in connection therewith.

(d) In any case, if an answer is filed, the court may consider opposition to the motion to transfer, if any, and may retain the action in the county where commenced if it appears that the convenience of the witnesses or the ends of justice will thereby be promoted.

(e) If the motion to transfer is denied, the court shall allow the defendant time to move to strike, demur, or otherwise plead if the defendant has not previously filed a response.

SEC. 2. Section 430.80 of the Code of Civil Procedure is amended to read:

430.80. (a) If the party against whom a complaint or cross-complaint has been filed fails to object to the pleading, either by demurrer or answer, that party is deemed to have waived the objection unless it is an objection that the court has no jurisdiction of the subject of the cause of action alleged in the pleading or an objection that the pleading does not state facts sufficient to constitute a cause of action.

(b) If the party against whom an answer has been filed fails to demur thereto, that party is deemed to have waived the objection unless it is an objection that the answer does not state facts sufficient to constitute a defense.

SEC. 3. Section 431.10 of the Code of Civil Procedure is amended to read:

431.10. (a) A material allegation in a pleading is one essential to the claim or defense and which could not be stricken from the pleading without leaving it insufficient as to that claim or defense.

(b) An immaterial allegation in a pleading is any of the following:

(1) An allegation that is not essential to the claim or defense.

(2) An allegation that is not pertinent to or supported by an otherwise sufficient claim or defense.

(3) A demand for judgment requesting relief not supported by the allegations of the complaint or cross-complaint.

(c) An "immaterial allegation" means "irrelevant matter" as that term is used in Section 436.

SEC. 4. Section 436 of the Code of Civil Procedure is amended to read:

436. The court may, upon a motion made pursuant to Section 435, or at any time in its discretion, and upon terms it deems proper:

(a) Strike out any irrelevant, false, or improper matter inserted in any pleading.

(b) Strike out all or any part of any pleading not drawn or filed in conformity with the laws of this state, a court rule, or an order of the court.

SEC. 5. Section 472a of the Code of Civil Procedure is amended to read:

472a. (a) A demurrer is not waived by an answer filed (or entered in the docket in the justice court) at the same time.

(b) Except as otherwise provided by rule adopted by the Judicial Council, when a demurrer to a complaint or to a cross-complaint is overruled and there is no answer filed (or entered), the court shall allow an answer to be filed (or entered) upon such terms as may be just. If a demurrer to the answer is overruled, the action shall proceed as if no demurrer had been interposed, and the facts alleged in the answer shall be considered as denied to the extent mentioned

in Section 431.20.

(c) When a demurrer is sustained, the court may grant leave to amend the pleading and shall fix the time within which the amendment or amended pleading shall be filed, or entered in the docket.

(d) When a motion to strike is granted pursuant to Section 436, the court may order that an amendment or amended pleading be filed upon terms it deems proper. When a motion to strike a complaint or cross-complaint, or portion thereof, is denied, the court shall allow the party filing the motion to strike to file an answer.

SEC. 6. Section 581 of the Code of Civil Procedure is amended to read:

581. An action may be dismissed in the following cases:

1. By plaintiff, by written request to the clerk, filed with the papers in the case, or by oral or written request to the judge where there is no clerk, at any time before the actual commencement of trial, upon payment of the costs of the clerk or judge; provided, that affirmative relief has not been sought by the cross-complaint of the defendant, and provided further that there is no motion pending for an order transferring the action to another court under the provisions of Section 396b. A trial shall be deemed to be actually commenced at the beginning of the opening statement of the plaintiff or his counsel, and if there shall be no opening statement, then at the time of the administering of the oath or affirmation to the first witness, or the introduction of any evidence.

2. By either party, upon the written consent of the other. No dismissal mentioned in subdivisions 1 and 2 of this section shall be granted unless upon the written consent of the attorney of record of the party or parties applying therefor, or if such consent is not obtained upon order of the court after notice to such attorney.

3. By the court, when either party fails to appear on the trial and the other party appears and asks for the dismissal, or when a demurrer is sustained without leave to amend, or when, after a demurrer to the complaint has been sustained with leave to amend, the plaintiff fails to amend it within the time allowed by the court, or a motion to strike the whole of the complaint is granted without leave to amend, or a motion to strike the whole of a complaint or portion thereof is granted with leave to amend and the plantiff fails to amend within the time allowed by the court, and either party moves for such dismissal.

4. By the court, with prejudice to the cause, when upon the trial and before the final submission of the case, the plaintiff abandons it.

5. The provisions of subdivision 1, of this section shall not prohibit a party from dismissing with prejudice, either by written request to the clerk or oral or written request to the judge, as the case may be, any cause of action at any time before decision rendered by the court. Provided, however, that no such dismissal with prejudice shall have the effect of dismissing a cross-complaint filed in said action. Dismissals without prejudice may be had in either of the manners

provided for in subdivision 1 of this section, after actual commencement of the trial, either by consent of all of the parties to the trial or by order of court on showing of just cause therefor.

6. By the court without prejudice when no party appears for trial following 30 days notice of time and place for trial.

SEC. 7. Section 586 of the Code of Civil Procedure is amended to read:

586. In the following cases the same proceedings shall be had, and judgment shall be rendered in the same manner, as if the defendant had failed to answer:

1. If the complaint has been amended, and the defendant fails to answer it, as amended, or demur thereto, or file a notice of motion to strike, of the character specified in Section 585, within 30 days after service thereof or within the time allowed by the court.

2. If the demurrer to the complaint is overruled and a motion to strike, of the character specified in Section 585, is denied, or where only one thereof is filed, if the demurrer is overruled or the motion to strike is denied, and the defendant fails to answer the complaint within the time allowed by the court.

3. If a motion to strike, of the character specified in Section 585, is granted in whole or in part, and the defendant fails to answer the unstricken portion of the complaint within the time allowed by the court, no demurrer having been sustained or being then pending.

4. If a motion to quash service of summons or to stay or dismiss, the action has been filed or writ of mandate sought and notice thereof given, as provided in Section 418.10, and upon denial of such motion or writ, defendant fails to respond to the complaint, within the time provided in such section or as otherwise provided by law.

5. If the demurrer to the answer is sustained and the defendant fails to amend the answer within the time allowed by the court.

6. (a) If a motion to transfer pursuant to Section 396b is denied and the defendant fails to respond to the complaint within the time allowed by the court pursuant to subdivision (e) of Section 396b or within the time provided in subdivision (c).

(b) If a motion to transfer pursuant to Section 396b is granted and the defendant fails to respond to the complaint within 15 days of the mailing of notice of the filing and case number by the clerk of the court to which the action or proceeding is transferred or within the time provided in subdivision (c).

(c) If the order granting or denying a motion to transfer pursuant to Section 396a or 396b is the subject of an appeal pursuant to Section 904.2 or 904.3 in which a stay is granted or of a mandate proceeding pursuant to Section 400, the court having jurisdiction over the trial, upon application or on its own motion after such appeal or mandate proceeding becomes final or upon earlier termination of a stay, shall allow the defendant a reasonable time to respond to the complaint. Notice of the order allowing the defendant further time to respond to the complaint shall be promptly served by the party who obtained such order or by the clerk if the order is made on the court's own

motion.

(d) For the purposes of this section, "to respond" means: to answer, to demur, or to move to strike.

7. If a motion to strike the answer in whole, of the character specified in Section 585, is granted without leave to amend, or if a motion to strike the answer in whole or in part, of the character specified in Section 585, is granted with leave to amend and the defendant fails to amend the answer within the time allowed by the court.

SEC. 8. Section 589 of the Code of Civil Procedure is amended to read:

589. An issue of law arises:

(a) Upon a demurrer to the complaint, cross-complaint, or answer, or to some part thereof.

(b) Upon a motion to strike made pursuant to Section 435, 436, or 473.

SEC. 9. Section 658 of the Code of Civil Procedure is amended to read:

658. When the application is made for a cause mentioned in the first, second, third and fourth subdivisions of Section 657, it must be made upon affidavits; otherwise it must be made on the minutes of the court.

CHAPTER 1168

An act to amend Section 53972.5 of the Government Code and to add Section 1769 to the Health and Safety Code, relating to emergency services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 53972.5 of the Government Code is amended to read:

53972.5. A proposal for the creation of a local agency for the purpose of providing fire protection, prevention, or suppression services directly, by contract with another local agency, or pursuant to the Fire Protection District Law of 1961, Part 2.7 (commencing with Section 13801) of Division 12 of the Health and Safety Code, or police protection services, may be combined with a proposal for the adoption by the local agency of a special tax pursuant to Section 53978, and presented to the voters as a single ballot proposition. If both proposals are presented as a single ballot proposition, the proposed local agency shall not be created, and the special tax shall not take effect, unless the proposition is approved by two-thirds of

the voters voting upon the proposition.

SEC. 2. Section 1769 is added to the Health and Safety Code, to read:

1769. (a) The Legislature finds and declares that a threat to public health and safety exists whenever there is a need for emergency services and that entities and emergency rescue personnel should be encouraged to provide emergency services. To that end, a qualified immunity from liability shall be provided for public entities and emergency rescue personnel providing emergency services.

(b) Except as provided in Article 1 (commencing with Section 17000) of Chapter 1 of Division 9 of the Vehicle Code, neither a public entity nor emergency rescue personnel shall be liable for any injury caused by an action taken by emergency rescue personnel acting within the scope of their employment to provide emergency services, unless the action taken was performed in bad faith or in a grossly negligent manner.

(c) For purposes of this section, it shall be presumed that the action taken when providing emergency services was performed in good faith and without gross negligence. This presumption shall be one affecting the burden of proof.

(d) For purposes of this section, "emergency rescue personnel" means any person who is an officer, employee, or member of a fire department or fire protection or firefighting agency of the federal government, the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state, whether the person is a volunteer or partly paid or fully paid, while he or she is actually engaged in providing emergency services as defined in subdivision (e).

(e) For purposes of this section, "emergency services" includes, but is not limited to, first aid and medical services, rescue procedures and transportation, or other related activities necessary to insure the health or safety of a person in imminent peril.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide broader application of a provision authorizing needed fire suppression, protection, and prevention and police protection services and to remove untoward fear of liability when providing emergency services at the earliest possible time, it is necessary for this act to take effect immediately.

CHAPTER 1169

An act to amend Sections 131, 976.6, 978.1, 1032, 1032.5, 1110, 1589, 3702, and 4702 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 131 of the Unemployment Insurance Code is amended to read.

131. "Contributions" means the money payments to the Unemployment Fund, Employment Training Fund, or Unemployment Compensation Disability Fund which are required by this division.

SEC. 2. Section 976.6 of the Unemployment Insurance Code is amended to read:

976.6. In addition to other contributions required by this division, every employer, except an employer defined by Sections 676, 684, or 685, shall pay into the Employment Training Fund contributions at the rate of 0 1 percent of wages as provided by Section 930. 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. 3. Section 978.1 of the Unemployment Insurance Code is amended to read:

978.1. In lieu of contributions required by Section 977 or 978, an employer, except an employer as defined by Section 676, 684, or 685, whose average base payroll has increased on a computation date 25 percent or more above the employer's 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 1 percent (1.3%) under Section 977, or nine-tenths of 1 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. 4. Section 1032 of the Unemployment Insurance Code is amended to read:

1032. If it is ruled under Section 1030 or 1328 that the claimant left the employer's employ voluntarily and without good cause or was discharged by reason of misconduct connected with his or her work, or that he or she 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 that he or she left the 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, benefits paid to the claimant subsequent to the termination of employment due to such voluntary leaving or discharge, or due to the termination of the temporary employment of a student 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 due to the termination of employment caused by such leaving to accompany or join a spouse, which are based upon wages earned from such employer prior to the date of such termination of employment, shall not be charged to the account of such employer, except as provided by Section 1026, unless he or she failed to furnish the information specified in Section 1030 within the time limit prescribed in that section or unless such ruling is reversed by a reconsidered ruling.

SEC. 5. Section 1032.5 of the Unemployment Insurance Code is amended to read:

1032.5. (a) Any base period employer may, within 15 days after mailing of a notice of computation under Section 1329, submit to the department facts within its possession disclosing that the individual claiming benefits is rendering services for that employer in less than full-time work, and that the individual has continuously, commencing in or prior to the beginning of the base period, rendered services for that employer in such less than full-time work.

(b) The department shall consider facts submitted under subdivision (a) of this section together with any information in its possession and promptly notify the employer of its ruling. If the department finds that an individual is, under Section 1252, unemployed in any week on the basis of his or her having less than full-time work, and that the employer submitting facts under this section is a base period employer for whom the individual has continuously, commencing in or prior to the beginning of the base period, rendered services in such less than full-time work, that employer's account shall not be charged, except as provided by Section 1026, for benefits paid the individual in any week in which such wages are payable by that employer to the individual. 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 an appeal to a referee is filed or, if no appeal is filed, within 20 days after mailing or personal service of the notice of the ruling or reconsidered ruling.

SEC. 6. Section 1110 of the Unemployment Insurance Code is amended to read:

1110. (a) Employer contributions required under Sections 976 and 976.5, 976.6 and, except as provided by subdivision (b) of this section, worker contributions required under Section 984 are due and payable on the first day of the calendar month following the close of each calendar quarter and shall become delinquent if not paid on or before the last day of such month.

(b) Workers' contributions required under Section 984 are due and payable at the same time as amounts required to be withheld under Section 13020 are paid to the department pursuant to Section 13021, regardless of the amount of accumulated unpaid liability for workers' contributions.

SEC. 7. Section 1589 of the Unemployment Insurance Code is amended to read:

1589. In lieu of filing claims for refund and interest payable on refunds against each of the funds from which an amount has been determined to be due under this division, the director may file a single claim with the State Controller showing the amount payable from each fund for payment from the Contingent Fund, and the Controller shall thereupon draw his warrant on the Contingent Fund and transfer the amounts certified by the director to be due from the Clearing Account—Unemployment Fund, the Employment Training Fund, the Unemployment Compensation Disability Fund, and the Personal Income Tax Fund, to the Contingent Fund.

SEC. 8. Section 3702 of the Unemployment Insurance Code is amended to read:

3702. Extended duration benefits, to the extent that such extended duration benefits are not reimbursed or reimbursable by the federal government to the State of California, shall be charged except as provided by Section 1032, 1032.5, 1034, 1036, 1335, 1338, or 1380, against the reserve 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 reserve 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. 9. Section 4702 of the Unemployment Insurance Code is amended to read:

4702. Federal-state extended benefits, to the extent that these extended benefits are not reimbursed or reimbursable by the federal government to the State of California, shall be charged except as provided by Section 1032, 1032.5, 1034, 1036, 1335, 1338, or 1380, against the reserve 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 reserve 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.

CHAPTER 1170

An act to amend Sections 358.1, 362, and 16507 of the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 358.1 of the Welfare and Institutions Code is amended to read:

358.1. Each social study required to be received in evidence pursuant to Section 358 shall include, but not be limited to, a factual discussion of each of the following subjects:

(a) Whether the county welfare department or probation officer has considered child protective services, as defined in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9, as a possible solution to the problems at hand, and has offered such services to qualified parents if appropriate under the circumstances.

(b) What plan, if any, for return of the child is recommended to the court by the county welfare department or probation officer.

(c) Whether the best interests of the minor will be served by granting reasonable visitation rights with the minor to his or her grandparents, in order to maintain and strengthen the minor's family relationships.

(d) Whether the subject child appears to be a person who is eligible to be considered for further court action to free the child from parental custody and control pursuant to Section 232 of the Civil Code.

SEC. 2. 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 the 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 the 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 removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interests of the minor will be served by granting visitation rights with the minor to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.

(c) 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, if all of 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.

(d) 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 the 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 the 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.

(e) 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 (c).

SEC. 2.5. 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 the 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 the 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.

(4) A home or facility in accordance with the federal Indian Child Welfare Act.

(b) Where the court has ordered removal of the child from the physical custody of his or her parents pursuant to Section 361, the court shall consider whether the family ties and best interests of the minor will be served by granting visitation rights with the minor to the minor's grandparents. The court shall clearly specify those rights to the supervising probation officer.

(c) 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, if all of 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.

(d) 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 the 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 the 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.

(e) The juvenile court may direct any and all reasonable orders to the parents r 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 (c).

SEC. 3. Section 16507 of the Welfare and Institutions Code is amended 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 or her 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. Family reunification services shall include a plan for visitation of the child by his or her grandparents, where the visitation is in the best interests of the child and will serve to maintain and strengthen the family relationships of the child.

SEC 3.5. Section 2.5 of this bill incorporates amendments to Section 362 of the Welfare and Institutions Code proposed by both this bill and SB 99. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 362 of the Welfare and Institutions Code, and (3) this bill is enacted after SB 99, in which case Section 2 of this bill shall not become operative.

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

SEC. 5. 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 1171

An act to amend Sections 6815.2 and 25358 of, to repeal and add Sections 6815 and 6919 to, and to repeal Sections 6504 and 6893 of, the Public Resources Code, relating to state resources.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 6504 of the Public Resources Code is repealed.

SEC. 2. Section 6815 of the Public Resources Code is repealed.

SEC. 3. Section 6815 is added to the Public Resources Code, to read:

6815. (a) Notwithstanding any other provision of law to the contrary, the commission may negotiate and enter into agreements for compensation for drainage or oil and gas leases on state-owned lands, other than those not available for lease pursuant to Section 6871.1 and that are described in Section 6871.2, if any of the following circumstances exist:

(1) Wells drilled upon private or public lands, including state-owned lands, are draining or may drain oil or gas from state-owned lands, provided that where wells are drilled on state-owned lands and other state-owned lands are or may be subject to drainage, the development is allowed only by drilling from already developed state lands.

(2) The lands are determined by the commission to be unsuitable for competitive bidding because of such factors as their small size or irregular configuration, or their inaccessibility from surface drill sites reasonably available or obtainable.

(3) The state owns a fractional interest in the lands.

(4) The lease or agreement is determined by the commission to be in the best interests of the state.

(b) Whenever wells drilled upon private or public lands, including state-owned lands, are draining or may drain oil or gas from state-owned lands not available for lease pursuant to Section 6871.1 and that are described in Section 6871.2, the commission may negotiate and enter into agreements for compensation for drainage or oil and gas leases, provided that the development of those lands shall be allowed only by drilling from adjacent lands.

SEC. 4. Section 6815.2 of the Public Resources Code is amended to read:

6815.2. (a) Notwithstanding Section 6815.1, the commission may take any oil, gas, or other hydrocarbons taken in kind by it, pursuant to any lease or agreement, and exchange it, by competitive bidding, for refined products which shall be allocated to state agencies and to other public agencies, if the State Energy Resources Conservation

and Development Commission, established pursuant to Division 15 (commencing with Section 25000), after a public hearing, finds, in its judgment, that such retention and allocation is necessary to alleviate fuel shortage conditions or will effect a substantial cost saving to the state.

(b) The commission may make and enter into contracts or agreements for exchange of such oil, gas, and other hydrocarbons taken in kind for finished products required for use by state and other public agencies. Such contracts or agreements shall be entered into by competitive bids. The commission may reject all bids, if it determines that they are not in the public interest.

(c) The commission shall charge the state or other public agencies allocated refined products the current market price of these products including all applicable taxes. This price shall not be less than the value of the oil, gas, or other hydrocarbons which would have been received by the state if not taken in kind. The revenue shall be subject to the terms and conditions enumerated in Section 6217. The taxes generated by these sales shall be distributed according to applicable provisions of the Revenue and Taxation Code.

(d) The refined products obtained from such exchange contracts or agreements shall be allocated to state agencies and to other public agencies in accordance with the regulations which shall be adopted, after a public hearing, by the State Energy Resources Conservation and Development Commission.

(e) Notwithstanding Section 6815.1, if the commission determines that it is in the best interests of the state, it may allow another state or public agency to take in kind oil, gas, or other hydrocarbons acquired by the commission.

The commission shall charge the state or other public agencies allocated in kind oil, gas, or other hydrocarbons the current market price of these products, including all applicable taxes. This price shall not be less than the value of the oil, gas, or other hydrocarbons which would have been received by the state if not taken in kind. The commission may also charge for any transportation, treatment, or other costs associated with taking the in kind royalty. The revenue shall be subject to the terms and conditions enumerated in Section 6217. The taxes generated by these sales shall be distributed according to applicable provisions of the Revenue and Taxation Code.

SEC. 5. Section 6893 of the Public Resources Code is repealed.

SEC. 6. Section 6919 of the Public Resources Code is repealed.

SEC. 7. Section 6919 is added to the Public Resources Code, to read:

6919. Notwithstanding any other provision of law to the contrary, the commission may negotiate and enter into agreements for compensation for drainage or geothermal leases of state-owned lands if any of the following conditions exist:

(a) Wells drilled upon private or public lands, including

state-owned lands, are draining or may drain geothermal resources from state-owned lands; provided, that where wells are drilled on state-owned lands and other state-owned lands are or may be subject to drainage, the development is allowed only by drilling from already developed state lands.

(b) The lands are determined by the commission to be unsuitable for competitive bidding because of such factors as their small size or irregular configuration, or their inaccessibility from surface drill sites reasonably available or obtainable.

(c) The state owns a fractional interest in the lands.

(d) The lease or agreement is determined by the commission to be in the best interests of the state.

SEC. 8. Section 25358 of the Public Resources Code is amended to read:

25358. (a) Within 70 days after the end of each preceding quarter of each calendar year, the commission shall publish and submit to the Governor and the Legislature a summary, an analysis, and an interpretation of the information submitted to it pursuant to Section 25354 and information reviewed pursuant to Section 25357. This report shall be separate from the report submitted pursuant to Section 25322. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted.

(b) Annually, no later than June 30 of each year, the commission shall publish and submit to the Governor and the Legislature a report describing emerging trends relating to the supply, demand, and pricing of petroleum and petroleum products, investments in production and refining, and shall include specific recommendations for legislative or administrative action regarding methods to increase conservation, reduce or stabilize demand, increase production and productivity, and other changes in government laws, regulations, or policies.

(c) The commission may use reasonable means necessary and available to it to seek and obtain any facts, figures, and other information from any source for the purpose of preparing and providing reports to the Governor and the Legislature. The commission shall specifically include in the reports its analysis of any unsuccessful attempts in obtaining information from potential sources, including the lack of cooperation or refusal to provide information.

(d) Whenever the commission fails to provide any report required pursuant to this section within the specified time, it shall provide to all members of the Legislature, within five days of the specified time, a detailed written explanation of the cause of any delay.

CHAPTER 1172

An act to add Sections 26519, 26625, 26655, 26720, and 26741 to the Health and Safety Code, and to repeal and add Section 347 to the Penal Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 26519 is added to the Health and Safety Code, to read:

26519. The department shall conduct a study of feasible methods for the packaging and sale of food products which will afford the greatest protection to the public from the adulteration of those products. The study shall be conducted in conjunction with the Department of Food and Agriculture, as well as representatives of consumer groups and food producers and retailers.

In carrying out this study, the department shall cooperate with the federal Food and Drug Administration to avoid unnecessary duplication. The department shall also evaluate the applicability of federal recommendations on food product safety to the needs of California. The department shall complete the study and report its findings to the Legislature on or before March 1, 1984.

SEC. 2. Section 26625 is added to the Health and Safety Code, to read:

26625. A drug or device is deemed adulterated under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration as set forth in Parts 200, 211, 314, and 800 of Volume 21 of the Code of Federal Regulations, as amended, relating to tamper-resistant packaging, but is not in compliance therewith.

SEC. 3. Section 26655 is added to the Health and Safety Code, to read:

26655. A drug or device is deemed misbranded under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration relating to tamper-resistant packaging, as set forth in Parts 200, 211, 314, and 800 of Volume 21 of the Code of Federal Regulations, as amended, but is not in compliance therewith.

SEC. 4. Section 26720 is added to the Health and Safety Code, to read:

26720. A cosmetic is deemed adulterated under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration relating to tamper-resistant packaging, as set forth in Part 700 of Volume 21 of the Code of Federal Regulations, as amended, but is not in compliance therewith.

SEC. 5. Section 26741 is added to the Health and Safety Code, to read:

26741. A cosmetic is deemed misbranded under the laws of this state if it is subject to regulations issued by the United States Food and Drug Administration relating to tamper-resistant packaging, as set forth in Part 700 of Volume 21 of the Code of Federal Regulations, as amended, but is not in compliance therewith.

SEC. 6. Section 347 of the Penal Code is repealed.

SEC. 7. Section 347 is added to the Penal Code, to read:

347. (a) Every person who willfully mingles any poison or harmful substance with any food, drink, medicine, or pharmaceutical product or who willfully places any poison or harmful substance in any spring, well, reservoir, or public water supply, where the person knows or should have known that the same would be taken by any human being to his or her injury, is guilty of a felony punishable by imprisonment in the state prison for two, three, or four years.

Any violation of this subdivision involving the use of a poison or harmful substance which may cause death if ingested or which causes the infliction of great bodily injury on any person shall be punished by an additional term of three years.

(b) Any person who maliciously informs any other person that a poison or other harmful substance has been or will be placed in any food, drink, medicine, pharmaceutical product, or public water supply, knowing that such report is false, is guilty of a crime punishable by imprisonment in the state prison, or imprisonment in the county jail not to exceed one year.

SEC. 8. 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 the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order that the Legislature may take appropriate action to protect the public from the adulteration of food and drug products as soon as possible, it is necessary that this act go into immediate effect.

CHAPTER 1173

An act to add Section 14132.3 to the Welfare and Institutions Code, relating to Medi-Cal benefits, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. The Legislature finds and declares that liver transplant operations generally do not constitute surgery of an experimental nature.

SEC. 2. Section 14132.3 is added to the Welfare and Institutions Code, to read:

14132.3. Notwithstanding any other provision of this chapter, the Medi-Cal program shall pay for donor and recipient surgery, subject to utilization controls, when a liver transplant is provided a beneficiary under this chapter, provided that the medical facility involved has been approved by the department to perform liver transplant surgery.

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 provide the necessary medical assistance to persons who will be unable to survive without liver transplant surgery, it is necessary that this bill go into effect immediately.

CHAPTER 1174

An act to amend Sections 5328 and 5328.1 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. 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 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), 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 or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's 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 or the Director of Developmental Services 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.

(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.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative.

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. 1.5. 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 4.1 (commencing with Section 4400), Division 4.5 (commencing with Section 4500), Division 5 (commencing with Section 5000), Division 6 (commencing with Section 6000), or Division 7 (commencing with Section 7100), 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 or psychological responsibility for the patient's care.

(b) When the patient, with the approval of the physician, licensed psychologist, or social worker with a master's 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 or the Director of Developmental Services 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. The 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.

(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. The 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.

(n) To a committee established in compliance with Sections 4070 and 5624.

(o) In providing information as described in Section 7325.5. Nothing in this subdivision shall permit the release of any information other than that described in Section 7325.5.

(p) To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

(q) If the patient gives his or her consent, information specifically pertaining to the existence of genetically handicapping conditions, as defined in Section 341.5 of the Health and Safety Code, may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative. For purposes of this subdivision, "qualified professional persons" means those persons with the qualifications necessary to carry out the genetic counseling duties under this subdivision as determined by the genetic disease unit established in the State Department of Health Services under Section 309 of the Health and Safety Code. If the patient does not respond or cannot respond to a request for permission to release information pursuant to this subdivision after reasonable attempts have been made over a two-week period to get a response, the information may be released upon request of the blood relative

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. 2. Section 5328.1 of the Welfare and Institutions Code is amended to read:

5328.1. (a) Upon request of a member of the family of a patient, or other person designated by the patient, a public or private treatment facility shall give the family member or the designee notification of the patient's diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, and the progress of the patient, if, after notification of the patient that this information is requested, the patient authorizes its disclosure. If, when initially informed of the request for notification, the patient is unable to authorize the release of such information, notation of the attempt shall be made into the patient's treatment record, and daily efforts shall be made to secure the patient's consent or refusal of authorization. However, if a request for information is made by the spouse, parent, child, or sibling of the patient and the patient is unable to authorize the release of such information, the requester shall be given notification of the patient's presence in the facility, except to the extent prohibited by federal law.

(b) Upon the admission of any mental health patient to a 24-hour public or private health facility licensed pursuant to Section 1250 of the Health and Safety Code, the facility shall make reasonable attempts to notify the patient's next of kin or any other person designated by the patient, of the patient's admission, unless the patient requests that this information not be provided. The facility shall make reasonable attempts to notify the patient's next of kin or any other person designated by the patient, of the patient's release, transfer, serious illness, injury, or death only upon request of the family member, unless the patient requests that this information not be provided. The patient shall be advised by the facility that he or she has the right to request that this information not be provided.

(c) No public or private entity or public or private employee shall

be liable for damages caused or alleged to be caused by the release of information or the omission to release information pursuant to this section.

Nothing in this section shall be construed to require photocopying of a patient's medical records in order to satisfy its provisions.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 5328 of the Welfare and Institutions Code proposed by both this bill and AB 1551. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 5328 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 1551, in which case Section 1 of this bill shall not become operative.

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 1175

An act to amend Sections 14154, 15204.5 and 18906 of the Welfare and Institutions Code, relating to welfare.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 14154 of the Welfare and Institutions Code is amended to read:

14154. The department shall establish and maintain a plan whereby costs for county administration of the determination of eligibility for benefits under this chapter will be effectively controlled within the amounts annually appropriated for such administration. The plan, to be known as the County Administrative Cost Control Plan, shall establish standards and performance criteria, including workload, productivity and support services standards, to which counties shall adhere. The plan shall be part of a single state plan, jointly developed by the department and the State Department of Social Services, in conjunction with the counties, for administrative cost control for the Aid to Families with Dependent

Children (AFDC), Food Stamp, and Medical Assistance (Medi-Cal) programs. Allocations shall be made to each county and shall be limited by and determined based upon the County Administrative Cost Control Plan. In administering the plan to control county administrative costs, the department shall not allocate state funds to cover county cost overruns which result from county failure to meet requirements of the plan. The department and the State Department of Social Services shall budget, administer and allocate state funds for county administration in a uniform and consistent manner.

Nothing in the provisions of this section, Section 15204.5, or Section 18906 shall be construed so as to limit the administrative or budgetary responsibilities of the department in a manner which would violate Section 14100.1, and thereby jeopardize federal financial participation under the Medi-Cal program.

SEC. 2. Section 15204.5 of the Welfare and Institutions Code is amended to read:

15204.5. The department shall establish and maintain a plan whereby costs for county administration of the payment of aid grants under this part will be effectively controlled within the amounts annually appropriated for such administration. The plan, to be known as the County Administrative Cost Control Plan, shall establish standards and performance criteria, including workload, productivity and support services standards, to which counties shall adhere. The plan shall be part of a single state plan, jointly developed by the department and the State Department of Health Services, in conjunction with the counties, for administrative cost control for the Aid to Families with Dependent Children (AFDC), Food Stamp, and Medical Assistance (Medi-Cal) programs. Allocations shall be made to each county and shall be limited by and determined based upon the County Administrative Cost Control Plan. In administering the plan to control county administrative costs, the department shall not allocate state funds to cover county cost overruns which result from county failure to meet requirements of the plan. The department and the State Department of Health Services shall budget, administer, and allocate state funds for county administration in a uniform and a consistent manner.

SEC. 3. Section 18906 of the Welfare and Institutions Code is amended to read:

18906. The department shall establish and maintain a plan whereby costs for county administration of food stamps under this chapter will be effectively controlled within the amounts annually appropriated for such administration. The plan, to be known as the County Administrative Cost Control Plan, shall establish standards and performance criteria, including workload, productivity and support services standards, to which counties shall adhere. The plan shall be part of a single state plan, jointly developed by the department and the State Department of Health Services, for administrative cost control for the Aid to Families with Dependent

Children (AFDC), Food Stamp, and Medical Assistance (Medi-Cal) programs. Allocations shall be made to each county and shall be limited by and determined based upon the County Administrative Cost Control Plan. In administering the plan to control county administrative costs, the department shall not allocate state funds to cover county cost overruns which result from county failure to meet requirements of the plan. The department and the State Department of Health Services shall budget, administer, and allocate state funds for county administration in a uniform and consistent manner.

CHAPTER 1176

An act to amend Section 7155.3 of, to repeal Section 7150.1 of, and to add Sections 7150.1, 7150.2, 7150.3, 7150.4, 7504, 7505, 7506, 7507, and 7508 to, the Financial Code, relating to loans.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 7150.1 of the Financial Code is repealed.

SEC. 2. Section 7150.1 is added to the Financial Code, to read:

7150.1. Notwithstanding any other provision of law, an association may adjust the interest rate, payment, balance, or term-to-maturity on any loan secured by real property as authorized by the loan contract, subject to the limitations of subdivision (b) and Section 341 of P.L. 97-320 (H.R. 6267, the Garn-St. Germain Depository Institutions Act of 1982).

(a) For the purposes of this section:

(1) "Fully amortized loan" means a loan in which, at inception of the loan, the entire principal balance, together with accrued interest, shall be payable within the scheduled term of the loan in substantially equal installments (excepting the last payment, which may be smaller than a regular scheduled payment).

(2) "Home loans" means loans made on the security of one- to four-unit residential dwellings (including condominiums and cooperatives), combinations of such dwellings and business property (where no more than 20 percent of the total appraised value of the real estate is attributable to the business use), farm residences and combinations of farm residences and commercial farm real property.

(3) "Nonamortized loan" means a loan in which none of the principal balance shall be payable prior to the maturity of the loan.

(4) "Open-end line of credit" means a loan plan in which the association reasonably contemplates repeated transactions; the association may impose interest from time to time on the unpaid principal of the loan plan, and the amount of credit that may be

extended to the borrower during the term of the loan plan (up to any limit set by the association) is generally made available to the extent that any outstanding principal balance is repaid.

(5) "Partially amortized loan" means a loan in which some but not all of the principal balance, together with accrued interest, shall be payable prior to the maturity of the loan.

(6) "Reverse annuity mortgage" means an instrument which provides for periodic payments to be made to a homeowner based on accumulated equity. The payments are made monthly directly by the association, or are made through the purchase of an annuity from an insurance company. The loan becomes due on a specified date after disbursement of the entire principal amount of the loan or when a specified event occurs, such as sale of the property or death of the borrower. The interest rate on this instrument may be fixed, or may be adjusted periodically as provided by this section.

(b) Adjustments to the interest rate, payment, balance, or term-to-maturity on home loans shall be subject to the limitations of this subdivision.

(1) The loan term shall not exceed 40 years, with interest payable at least semiannually, except as expressly authorized by this section.

(2) The loan balance for other than nonamortized and open-end line of credit loans shall be repayable in at least semiannual installments; provided, that loans on the security of farm residences and combinations of farm residences and commercial farm real property may be repayable in annual installments.

(3) The loan may be fully amortized, partially amortized, nonamortized, a reverse annuity mortgage, or an open-end line of credit loan. The loan contract may provide for the deferral of principal and capitalization of a portion of interest, or of all interest, in the case of loans to natural persons secured by borrower-occupied real property and on which periodic advances are being made.

(4) (A) At origination, the loan balance may not exceed the maximum loan-to-value ratio allowable under the provisions of this division. During the term of the loan, the loan-to-value ratio may increase above the maximum percentage otherwise permissible if the increase results from an adjustment described in paragraph (3) or (5). The commissioner shall assume continued compliance with applicable loan-to-value limitations where the original loan-to-value ratio met the requirements of this paragraph (4), but in no event may the loan balance exceed 125 percent of the original appraised value of the security property during the term of the loan unless pursuant to clause (i) of subparagraph (B) of paragraph (5) of subdivision (b) or unless the loan contract provides that the payment shall be adjusted at least once every five years, beginning no later than the 10th year of the loan, to a level sufficient to amortize the loan at the then existing interest rate and loan balance over the remaining term of the loan.

(B) If, at maturity of a loan secured by a home that provides for adjustments pursuant to paragraph (3) or (5), the ratio of the loan

balance to the current market value of the security property exceeds the maximum permissible amount, the association may offer to refinance the loan if: (i) that portion of the unpaid balance of the refinanced loan that exceeds 80 percent of the property's value is insured or guaranteed by a mortgage insurance company that the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer"; provided, however, that any unpaid loan balance secured by a pledged savings account shall not be required to be guaranteed or insured under this provision; and (ii) the loan contract for the refinanced loan requires that, in addition to full or partial amortization of the loan, the pro rata portion, based on the number of installments due annually, of estimated annual taxes and assessments on the security property be paid in advance to the association with each installment payment.

(5) For any home loan secured by borrower-occupied property, adjustments to the interest rate, payment, balance, or term-to-maturity shall comply with the limitations of this paragraph.

(A) Adjustments to the interest rate shall correspond directly to the movement of an interest-rate index or of a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, which index is readily available to, and verifiable by, the borrower and is beyond the direct control of the association. An association also may increase the interest rate pursuant to a formula or schedule that specifies the amount of the increase and the time at which it may be made and which is set forth in the loan contract. An association, in its sole discretion, may decrease the interest rate at any time.

(B) Adjustments to the payment and the loan balance that do not reflect an interest rate adjustment may be made if: (i) the adjustments reflect a change in a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, is readily available to and verifiable by the borrower, and is beyond the direct control of the association; (ii) in the case of a payment adjustment, the adjustment reflects a change in the loan balance or is made pursuant to a formula, or to a schedule specifying the percentage or dollar change in the payment as set forth in the loan contract; or (iii) in the case of an open-end line of credit loan, the adjustment reflects an advance taken by the borrower under the line of credit, or a payment made by the borrower, that is permitted by the loan contract.

(C) Any combination of indices or a moving average of index values may be used as an index, and an association (i) may use more than one index during the term of a loan, if set forth in the loan contract and (ii) may provide for the selection of a substitute index by the association in the event the index being used is no longer available to or verifiable by the borrower or as otherwise provided in the loan contract.

(D) At least 30 but not more than 120 days prior to an adjustment to the interest rate, payment, balance, or term-to-maturity, and at

least 90 but not more than 120 days prior to the expected maturity of a nonamortizing or partially amortizing loan (including a loan with a "call" provision pursuant to subparagraph (E) of paragraph (5) of subdivision (b)), an association shall provide the borrower with notice of the adjustment or of maturity. However, where the loan contract provides that changes in the interest rate shall occur more frequently than changes in the payment, the association need not notify the borrower of changes in the interest rate, or of changes in the loan balance or term resulting from an interest rate change, until notice of a payment adjustment is given. (For purposes of notification, a payment adjustment is considered to occur as of the date of the interest rate change immediately preceding the due date of the adjusted payment.) In addition, where the loan contract sets out a schedule of interest or payment adjustments, notice need not be given of interest or payment changes made pursuant to that schedule. In the case of an open-end line of credit loan, notice of an adjustment to the payment or the balance need not be given if the adjustment reflects advances taken by the borrower under the line of credit, payments made by the borrower, or interest rate changes and notice of a change in the interest rate permitted by the loan contract need not be given.

(E) The loan term may be adjusted only to reflect a change in the interest rate, the payment, or the loan balance. A loan contract may provide an association with the right to call the loan due and payable either after a specified period of time has elapsed following the date of the loan contract or as specified in a reverse annuity mortgage.

(6) Not later than three business days following receipt of a written application an association shall disclose to each applicant for a home loan made pursuant to the provisions of this section and which is secured by property occupied by the borrower the information specified by this paragraph. These disclosures shall be provided for all such loans that are directly originated by the association, for loans purchased from an affiliate (as defined in 12 C.F.R. Sec. 583.15), and for loans purchased from an unaffiliated entity pursuant to a written agreement to purchase loans not yet originated. The disclosures shall be in one or more documents other than the loan documents and shall be in plain language. The purpose of this disclosure requirement is to insure full understanding of the operation of the loan for which the individual is applying. The disclosures do not constitute a commitment on the part of an association to make a loan to the applicant. The disclosure material provided to an applicant shall include at least all of the following information as is relevant to the type of loan being offered:

(A) Whether the loan contract contains a due-on-sale clause and, if so, what rights the association has under the clause.

(B) A statement about whether the loan contract authorizes the imposition of a late charge or a prepayment charge and, if so, the amount of the charge or the manner in which it is to be determined. If the amount of the charge may vary over the term of the loan, the

association shall indicate the approximate minimum and maximum amounts that may be imposed for a loan of the same type and with an initial balance comparable to that of the borrower.

(C) If the loan contract provides for impound payments relating to the security property, a statement explaining the purpose of requiring impound payments, how the amount of the impound payments is established, and the rights of the association if the borrower fails to pay the impound payments.

(D) The term-to-maturity, if known, or the manner in which the term will be established.

(E) The initial interest rate, if known, or the manner in which the initial interest rate will be established.

(F) The amount of the initial payment, if known, and an explanation of how the amount of the payment is determined by reference to the initial loan balance, the interest rate, and the term over which the balance is scheduled to be repaid.

(G) If the interest rate, the payment, the loan balance, or the term-to-maturity may be adjusted, a full explanation of how the adjustments may be made, including identification of the index or indices to be used, and how index values may be obtained by the borrower, and how the adjustment of one item may affect the others.

(H) What information will be contained in each notice of an adjustment and, in the case of a nonamortized or partially amortized loan (including a loan giving the association the right to call the loan due and payable after a specified period of time has elapsed following the date of the loan contract or as specified in a reverse annuity mortgage), in the notice of maturity, and how far in advance of an adjustment or maturity each notice will be provided.

(I) A description of all contractual contingencies, other than those arising from the borrower's breach or nonperformance of an obligation under the loan contract, under which the loan may become due or which may result in a forced sale of the home.

(J) In the case of a nonamortized or partially amortized loan, unless the association unconditionally obligates itself to refinance the loan, a statement that a large payment will be due at maturity of the loan and that the association is under no obligation to refinance the loan; if the loan gives the association the right to call the loan due and payable after a specified period of time has elapsed following the date of the loan contract or upon the occurrence of a specified event external to the loan, a statement that a large payment may be due at such time and that the association is not obligated to refinance the loan.

(K) An example of the interaction of all variable features of the loan over any period of time.

(7) For any home loan secured by borrower-occupied property and on which the interest rate may be adjusted pursuant to paragraph (5), an association may not impose a prepayment charge on any prepayment made within 90 days of a required notice of an interest rate increase with respect to the loan.

(8) If federal law or regulation governing home loans originated by federally chartered savings and loan associations is repealed or revised in any manner which renders it other than technically or nonsubstantively more restrictive and limited in scope than the provisions of this section, as determined in a finding by the commissioner, then the provisions of this section shall also be so restricted, within one year from the date of the finding, by regulations adopted by the commissioner pursuant to Section 5500.5.

SEC. 3. Section 7150.2 is added to the Financial Code, to read:

7150.2. Notwithstanding any other provision of law, loans (including construction loans) on the security of real property for primarily residential use (other than a one- to four-unit dwelling) or the security of real property for primarily nonresidential use shall be subject to the limitations of this section.

(a) The loan term shall not exceed 30 years, except for nonamortized loans, which shall be repayable within five years, and except for construction loans, which shall be repayable within six years.

(b) Interest shall be payable at least semiannually, except to the extent that the loan contract provides for the deferral and capitalization of interest.

(c) At origination, the loan-to-value ratio may not exceed the maximum permitted for that class of loans, as determined by the association's board of directors (but not more than 100 percent). During the term of the loan, the loan-to-value ratio may increase above the maximum permissible percentage if the increase results from the deferral and capitalization of interest, but at no time during the loan term may the ratio of the loan balance to the initial appraised value of the security property exceed 100 percent as a result of the deferral and capitalization of interest.

(d) An association's aggregate investment in real property loans for primarily nonresidential use under this section shall not exceed 40 percent of assets.

SEC. 4. Section 7150.3 is added to the Financial Code, to read:

7150.3. Notwithstanding any other provision of law, an association may make a loan secured by an assignment of a loan or loans to the extent that it could, under applicable law and regulations, make or purchase the underlying assigned loan or loans.

SEC. 5. Section 7150.4 is added to the Financial Code, to read:

7150.4. Notwithstanding any other provision of law, an association may make single family dwelling loans on the security of building lots or sites for construction of the borrower's principal residence, as evidenced by the borrower's certification of intention that the property will be so used. The loan-to-value ratio of the loans shall not exceed that approved for loans of a similar type by the association's board of directors (but not to exceed 100 percent) and shall be repayable within 15 years, with interest payable at least semiannually.

SEC. 6. Section 7155.3 of the Financial Code is amended to read:

7155.3. In addition to loans in which it may invest under other provisions of the law, an association may invest an amount not exceeding 5 percent of its assets in loans, advances of credit, and interests therein, secured by real property for primarily residential use or real property used or to be used for commercial farming, which are not otherwise authorized under this division. Home loans (as defined in Section 7150.1) made under this authority shall conform to the notice and disclosure requirements of subparagraph (D) of paragraph (5) of subdivision (b) and paragraph (6) of subdivision (b) of Section 7150.1, when such loans contain provisions for adjustment of interest rate, payment, balance or term to maturity.

SEC. 7. Section 7504 is added to the Financial Code, to read:

7504. Notwithstanding any other provision of law, an association may adjust the interest rate, payment, balance, or term-to-maturity on any loan secured by real property as authorized by the loan contract, subject to the limitations of subdivision (b) and Section 341 of P.L. 97-320 (H.R. 6267, the Garn-St. Germain Depository Institutions Act of 1982).

(a) For the purposes of this section:

(1) "Fully amortized loan" means a loan in which, at inception of the loan, the entire principal balance, together with accrued interest, shall be payable with the scheduled term of the loan in substantially equal installments (excepting the last payment, which may be smaller than a regular scheduled payment).

(2) "Home loans" means loans made on the security of one- to four-unit residential dwellings (including condominiums and cooperatives), combinations of such dwellings and business property (where no more than 20 percent of the total appraised value of the real estate is attributable to the business use), farm residences and combinations of farm residences and commercial farm real property.

(3) "Nonamortized loan" means a loan in which none of the principal balance shall be payable prior to the maturity of the loan.

(4) "Open-end line of credit" means a loan plan in which the association reasonably contemplates repeated transactions; the association may impose interest from time to time on the unpaid principal of the loan plan, and the amount of credit that may be extended to the borrower during the term of the loan plan (up to any limit set by the association) is generally made available to the extent that any outstanding principal balance is repaid.

(5) "Partially amortized loan" means a loan in which some but not all of the principal balance, together with accrued interest, shall be payable prior to the maturity of the loan.

(6) "Reverse annuity mortgage" means an instrument which provides for periodic payments to be made to a homeowner based on accumulated equity. The payments are made monthly directly by the association, or are made through the purchase of an annuity from an insurance company. The loan becomes due on a specified date after disbursement of the entire principal amount of the loan or

when a specified event occurs, such as sale of the property or death of the borrower. The interest rate on this instrument may be fixed, or may be adjusted periodically as provided by this section.

(b) Adjustments to the interest rate, payment, balance, or term-to-maturity on home loans shall be subject to the limitations of this subdivision.

(1) The loan term shall not exceed 40 years, with interest payable at least semiannually, except as expressly authorized by this section.

(2) The loan balance for other than nonamortized and open-end line of credit loans shall be repayable in at least semiannual installments; provided, that loans on the security of farm residences and combinations of farm residences and commercial farm real property may be repayable in annual installments.

(3) The loan may be fully amortized, partially amortized, nonamortized, a reverse annuity mortgage, or an open-end line of credit loan. The loan contract may provide for the deferral of principal and capitalization of a portion of interest, or of all interest, in the case of loans to natural persons secured by borrower-occupied real property and on which periodic advances are being made.

(A) At origination, the loan balance may not exceed the maximum loan-to-value ratio allowable under the provisions of this division. During the term of the loan, the loan-to-value ratio may increase above the maximum percentage otherwise permissible if the increase results from an adjustment described in paragraph (3) or (5). The commissioner shall assume continued compliance with applicable loan-to-value limitations where the original loan-to-value ratio met the requirements of this paragraph, but in no event may the loan balance exceed 125 percent of the original appraised value of the security property during the term of the loan unless pursuant to clause (i) of subparagraph (B) of paragraph (5) of subdivision (b) or unless the loan contract provides that the payment shall be adjusted at least once every five years, beginning no later than the 10th year of the loan, to a level sufficient to amortize the loan at the then existing interest rate and loan balance over the remaining term of the loan.

(B) If, at maturity of a loan secured by a home that provides for adjustments pursuant to paragraph (3) or (5), the ratio of the loan balance to the current market value of the security property exceeds the maximum permissible amount, the association may offer to refinance the loan if (i) that portion of the unpaid balance of the refinanced loan that exceeds 80 percent of the property's value is insured or guaranteed by a mortgage insurance company that the Federal Home Loan Mortgage Corporation has determined to be a "qualified private insurer"; provided, however, that any unpaid loan balance secured by a pledged savings account shall not be required to be guaranteed or insured under this provision, and (ii) the loan contract for the refinanced loan requires that, in addition to full or partial amortization of the loan, the pro rata portion, based on the number of installments due annually, of estimated annual taxes and

assessments on the security property be paid in advance to the association with each installment payment.

(4) For any home loan secured by borrower-occupied property, adjustments to the interest rate, payment, balance, or term-to-maturity shall comply with the limitations of this paragraph.

(A) Adjustments to the interest rate shall correspond directly to the movement of an interest-rate index or of a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, which index is readily available to, and verifiable by, the borrower and is beyond the direct control of the association. An association also may increase the interest rate pursuant to a formula or schedule that specifies the amount of the increase and the time at which it may be made and which is set forth in the loan contract. An association, in its sole discretion, may decrease the interest rate at any time.

(B) Adjustments to the payment and the loan balance that do not reflect an interest rate adjustment may be made if: (i) the adjustments reflect a change in a national or regional index that measures the rate of inflation or the rate of change in consumer disposable income, is readily available to and verifiable by the borrower, and is beyond the direct control of the association; (ii) in the case of a payment adjustment, the adjustment reflects a change in the loan balance or is made pursuant to a formula, or to a schedule specifying the percentage or dollar change in the payment as set forth in the loan contract; or (iii) in the case of an open-end line of credit loan, the adjustment reflects an advance taken by the borrower under the line of credit, or a payment made by the borrowers, that is permitted by the loan contract.

(C) Any combination of indices or a moving average of index values may be used as an index, and an association (i) may use more than one index during the term of a loan, if set forth in the loan contract and (ii) may provide for the selection of a substitute index by the association in the event the index being used is no longer available to or verifiable by the borrower or as otherwise provided in the loan contract.

(D) At least 30 but not more than 120 days prior to an adjustment to the interest rate, payment, balance, or term-to-maturity, and at least 90 but not more than 120 days prior to the expected maturity of a nonamortizing or partially amortizing loan (including a loan with a "call" provision pursuant to subparagraph (E) of paragraph (5) of subdivision (b)), an association shall provide the borrower with notice of the adjustment or of maturity. However, where the loan contract provides that changes in the interest rate shall occur more frequently than changes in the payment, the association need not notify the borrower of changes in the interest rate, or of changes in the loan balance or term resulting from an interest rate change, until notice of a payment adjustment is given. (For purposes of notification, a payment adjustment is considered to occur as of the date of the interest rate change immediately preceding the due date

of the adjusted payment.) In addition, where the loan contract sets out a schedule of interest or payment adjustments, notice need not be given of interest or payment changes made pursuant to that schedule. In the case of an open-end line of credit loan, notice of an adjustment to the payment or the balance need not be given if the adjustment reflects advances taken by the borrower under the line of credit, payments made by the borrower or interest rate changes and notice of a change in the interest rate permitted by the loan contract need not be given.

(E) The loan term may be adjusted only to reflect a change in the interest rate, the payment or the loan balance. A loan contract may provide an association with the right to call the loan due and payable either after a specified period of time has elapsed following the date of the loan contract or as specified in a reverse annuity mortgage.

(6) Not later than three business days following receipt of a written application an association shall disclose to each applicant for a home loan made pursuant to the provisions of this section and which is secured by property occupied by the borrower the information specified by this paragraph. These disclosures shall be provided for all such loans that are directly originated by the assocation, for loans purchased from an affiliate (as defined in 12 C.F.R., Sec. 583.15), and for loans purchased from an unaffiliated entity pursuant to a written agreement to purchase loans not yet originated. The disclosures shall be in one or more documents other than the loan documents and shall be in plain language. The purpose of this disclosure requirement is to insure full understanding of the operation of the loan for which the individual is applying. The disclosures do not constitute a commitment on the part of an association to make a loan to the applicant. The disclosure material provided to an applicant shall include at least all of the following information as is relevant to the type of loan being offered:

(A) Whether the loan contract contains a due-on-sale clause and, if so, what rights the association has under the clause.

(B) A statement about whether the loan contract authorizes the imposition of a late charge or a prepayment charge and, if so, the amount of the charge or the manner in which it is to be determined. If the amount of the charge may vary over the term of the loan, the association shall indicate the approximate minimum and maximum amounts that may be imposed for a loan of the same type and with an initial balance comparable to that of the borrower.

(C) If the loan contract provides for impound payments relating to the security property, a statement explaining the purpose of requiring impound payments, how the amount of the impound payment is established, and the rights of the association if the borrower fails to pay the impound payments.

(D) The term-to-maturity, if known or the manner in which the term will be established.

(E) The initial interest rate, if known, or the manner in which the initial interest rate will be established.

(F) The amount of the initial payment, if known, and an explanation of how the amount of the payment is determined by reference to the initial loan balance, the interest rate, and the term over which the balance is scheduled to be repaid.

(G) If the interest rate, the payment, the loan balance, or the term-to-maturity may be adjusted, a full explanation of how the adjustments may be made, including identification of the index or indices to be used, and how index values may be obtained by the borrower, and how the adjustment of one item may affect the others.

(H) What information will be contained in each notice of an adjustment and, in the case of a nonamortized or partially amortized loan (including a loan giving the association the right to call the loan due and payable after a specified period of time has elapsed following the date of the loan contract or as specified in a reverse annuity mortgage), in the notice of maturity, and how far in advance of an adjustment or maturity each notice will be provided.

(I) A description of all contractual contingencies, other than those arising from the borrower's breach or nonperformance of an obligation under the loan contract, under which the loan may become due or which may result in a forced sale of the home.

(J) In the case of a nonamortized or partially amortized loan, unless the association unconditionally obligates itself to refinance the loan, a statement that a large payment will be due at maturity of the loan and that the association is under no obligation to refinance the loan; if the loan gives the association the right to call the loan due and payable after a specified period of time has elapsed following the date of the loan contract or upon the occurrence of a specified event external to the loan, a statement that a large payment may be due at such time and that the association is not obligated to refinance the loan.

(K) An example of the interaction of all variable features of the loan over any period of time.

(7) For any home loan secured by borrower-occupied property and on which the interest rate may be adjusted pursuant to paragraph (5), an association may not impose a prepayment charge on any prepayment made within 90 days of a required notice of an interest rate increase with respect to the loan.

(8) If federal law or regulation governing home loans originated by federal savings and loan associations is repealed or revised in any manner which renders it other than technically or nonsubstantively more restrictive and limited in scope than the provisions of this section, as determined in a finding by the commissioner, then the provisions of this section shall also be so restricted, within one year from the date of the finding, by regulations adopted by the commissioner pursuant to Section 8054.

SEC. 8. Section 7505 is added to the Financial Code, to read:

7505. Notwithstanding any other provision of law, loans (including construction loans) on the security of real property for primarily residential use (other than a one- to four-unit dwelling) or

the security of real property for primarily nonresidential use shall be subject to the limitations of this section.

(a) The loan term shall not exceed 30 years, except for nonamortized loans, which shall be repayable within five years, and except for construction loans, which shall be repayable within six years.

(b) Interest shall be payable at least semiannually, except to the extent that the loan contract provides for the deferral and capitalization of interest.

(c) At origination, the loan-to-value ratio may not exceed the maximum permitted for that class of loans, as determined by the association's board of directors (but not more than 100 percent). During the term of the loan, the loan-to-value ratio may increase above the maximum permissible percentage if the increase results from the deferral and capitalization of interest, but at no time during the loan term may the ratio of the loan balance to the initial appraised value of the security property exceed 100 percent as a result of the deferral and capitalization of interest.

(d) An association's aggregate investment in real property loans for primarily nonresidential use under this section shall not exceed 40 percent of assets.

SEC. 9. Section 7506 is added to the Financial Code, to read:

7506. Notwithstanding any other provision of the law, an association may make a loan secured by an assignment of a loan or loans to the extent that it could, under applicable law and regulations, make or purchase the underlying assigned loan or loans.

SEC. 10. Section 7507 is added to the Financial Code, to read:

7507. Notwithstanding any other provision of law, an association may make single-family dwelling loans on the security of building lots or sites for construction of the borrower's principal residence, as evidenced by the borrower's certification of intention that the property will be so used. The loan-to-value ratio of such loans shall not exceed that approved for loans of a similar type by the association's board of directors (but not to exceed 100 percent) and shall be repayable within 15 years, with interest payable at least semiannually.

SEC. 11 Section 7508 is added to the Financial Code, to read:

7508. In addition to loans in which it may invest under other provisions of the law, an association may invest an amount not exceeding 5 percent of its assets in loans, advances of credit and interests therein, secured by real property for primarily residential use or real property used or to be used for commercial farming, which are not otherwise authorized under this division. Home loans (as defined in Section 7504) made under this authority must conform to the notice and disclosure requirements of subparagraph (D) of paragraph (5) of subdivision (b) and paragraph (6) of subdivision (b) of Section 7504, when such loans contain provisions for adjustment of interest rate, payment, balance or term to maturity.

SEC. 12. It is the intent of the Legislature, if this bill and

Assembly Bill 1434 are both chaptered and become effective January 1, 1984, that Sections 7 to 11, inclusive, of this act shall become effective and, in that event, that Sections 2 to 6, inclusive, shall not become effective. If AB 1434 is not chaptered then Sections 2 to 6, inclusive, of this act shall become effective and Sections 7 to 11, inclusive, shall not become effective.

CHAPTER 1177

An act to amend Sections 25805, 25811.5, 25812, and 25813 of, and to add Sections 25810.1, 25812.4, 25812.5, 25812.6, 25812.7, and 25813.5 to, the Health and Safety Code, relating to radioactive waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. The Legislature finds and declares that certain medical, industrial, and other operations, which generate low-level radioactive waste contribute to the health and safety of the people of California as well as the state economy, that without means for adequate, safe management and disposal of low-level radioactive waste, these operations may be seriously impaired, and that means are necessary to minimize the impact of low-level radioactive waste upon the environment and the public health and safety.

The Legislature further finds and declares that in December, 1980, the Congress enacted the "Low-Level Radioactive Waste Policy Act" (42 U.S.C. Secs. 2021b to 2021d, inclusive, (P.L. 96-573)) establishing as the policy of the federal government that (1) each state is responsible for providing for the availability of capacity either within or outside the state for the disposal of low-level radioactive waste generated within its borders except for waste generated as a result of defense activities of the Secretary of Energy or federal research and defense activity, and (2) low-level radioactive waste can be most safely and efficiently managed on a regional basis.

The Legislature further finds and declares that in enacting Public Law 96-573, the Congress has encouraged the states to enter into those compacts as may be necessary to provide for the establishment and operation of regional disposal facilities for low-level radioactive waste, and the Congress has provided that after January 1, 1986, any compact may restrict the use of regional disposal facilities under the compact to the disposal of low-level radioactive waste generated within the region.

The Legislature further finds and declares that California, virtually alone among the 50 states, is not now a prospective member of a compact, and that California generators of low-level radioactive

waste may, therefore, be excluded from use of disposal facilities in other states upon which they are now totally reliant.

The Legislature further finds and declares that California generators of low-level radioactive waste are in jeopardy of losing access to those disposal sites in other states on which they now rely even prior to the January 1, 1986, date established in Public Law 96-573.

It is the intent of the Legislature, by amendment to the California Radiation Control Law, to establish a legal and regulatory framework which will assure for California generators, the safe management of low-level radioactive wastes, permit and encourage the expeditious establishment and operation by the private sector of a low-level radioactive waste disposal facility within the state and permit and encourage the establishment of those timely interim measures and facilities as may be required to meet any contingency arising from curtailed access to existing disposal facilities. It is also the intent of the Legislature to continue studies directed toward minimizing the environmental, occupational, and public health impact of low-level radioactive waste by evaluating the technical and economic feasibility of waste reduction, treatment, and the decontamination of materials to permit their reuse, and to accelerate state planning efforts. By requiring these studies and planning efforts, it is not the intent of the Legislature to discourage or delay action by the private sector.

It is the intent of the Legislature that California seek out and enter into mutually beneficial arrangements with other states for the disposal of low-level radioactive waste. These interstate arrangements, however, are not intended to be alternatives to the establishment of facilities in California for the disposal of low-level radioactive waste.

SEC. 2. Section 25805 of the Health and Safety Code is amended to read:

25805. As used in this chapter:

(a) "Secretary" means the Secretary of the Resources Agency.

(b) "Ionizing radiation" means gamma rays and X-rays; alpha and beta particles, high-speed electrons, neutrons, protons, and other nuclear particles; but not sound or radio waves, or visible, infrared, or ultraviolet light.

(c) "Person" means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent, or agency of the foregoing, other than the United States Nuclear Regulatory Commission, the United States Department of Energy, or any successor thereto, and other than federal government agencies licensed by the United States Nuclear Regulatory Commission, under prime contract to the United States Department of Energy, or any successor thereto.

(d) "Byproduct material" means any radioactive material, except

special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or utilizing special nuclear material.

(e) "Source material" means (1) uranium, thorium, or any other material which the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such; or (2) ores containing one or more of the foregoing materials, in such concentration as the department declares by rule to be source material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material in such concentration to be source material.

(f) "Special nuclear material" means (1) plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the department declares by rule to be special nuclear material after the United States Nuclear Regulatory Commission, or any successor thereto, has determined the material to be such, but does not include source material; or (2) any material artificially enriched by any of the foregoing, but does not include source material.

(g) "General license" means a license, pursuant to regulations promulgated by the department, effective without the filing of an application, to transfer, acquire, own, possess or use quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(h) "Specific license" means a license, issued after application, to use, manufacture, produce, transfer, receive, acquire, own, or possess quantities of, or devices or equipment utilizing, byproduct, source, or special nuclear materials or other radioactive material occurring naturally or produced artificially.

(i) "Registration" means the reporting of possession of a source of radiation and the furnishing of information with respect thereto, in accordance with subdivision (b) of Section 25815.

(j) "Department" means the State Department of Health Services.

(k) "Director" means the State Director of Health Services.

(*l*) "Low-level waste" means any radioactive waste except high-level radioactive waste and transuranic waste. "High-level radioactive wastes" means: (1) irradiated reactor fuel, (2) liquid waste resulting from the operation of the first cycle solvent extraction system, or equivalent, and the concentrated wastes from subsequent extraction cycles, or equivalent, in a facility for reprocessing irradiated reactor fuel, and (3) solids into which such liquid wastes have been converted. "Transuranic waste" includes any waste containing more than 100 nanocuries of alpha-emitting transuranic elements per gram of waste material.

SEC. 3. Section 25810.1 is added to the Health and Safety Code, to read:

25810.1. The authority of the department to issue licenses pursuant to Section 25810 is not affected by any requirements to conduct studies or planning efforts specified in Section 25811.5.

SEC. 4. Section 25811.5 of the Health and Safety Code is amended to read:

25811.5. In addition to the requirements imposed by Section 25811, the department shall develop an overall plan, in consultation with other state, regional, and federal agencies, for the management, treatment, and disposal of low-level radioactive waste generated within California. The plan shall contain, at a minimum, all of the following elements:

(a) Specific contingency plans to address the needs of the state for the short-term storage of low-level radioactive waste in the event of a precipitous closure of existing out-of-state commercial waste disposal facilities and to evaluate feasible alternatives for meeting the state's needs. This element of the plan shall include, but is not limited to, all of the following factors:

(1) The amount and kinds of low-level radioactive waste generated by California licensees and current disposal locations.

(2) The size and nature of an interim storage facility required to meet California's interim low-level radioactive waste disposal needs.

(3) The cost of developing and operating an interim storage site by the department or contracting organizations.

(4) Criteria for the siting of an interim storage site, including, but not limited to, all of the following:

(A) Proximity to population.

(B) Geologic stability.

(C) Proximity to ground or surface water.

(D) Availability of transportation.

(E) General public health and economic considerations.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(b) A classification scheme for the separation of low-level waste which will facilitate the management, treatment, storage, and ultimate disposal of such waste. This classification scheme shall consider such matters as possible de minimus radiation levels for specific radionuclides, the quantity and specific activity of the material, its persistence, toxicity, chemical form, reactivity, and the principal radionuclides present. The classification scheme shall also include the specifications necessary to determine which classes of waste may or may not be accepted for storage in an interim storage facility established pursuant to Section 25813, which may or may not be held by the licensee for decay to specified residual radioactivity levels and which require long-term isolation from the environment, as the case may be, for the protection of the public health and safety. The department may require as a condition of licensure the submission of information necessary to determine the total amount of waste produced in each class of the classification scheme. The

department may, by regulation, adopt the classification scheme establishing which wastes may or may not be accepted at an interim storage facility or at a treatment or disposal facility.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(c) Siting criteria for potential land burial disposal sites and treatment facilities within the state. In establishing these criteria, the department shall consider the following factors, including, but not limited to:

(1) The present and projected future uses of land, water, and natural resources.

(2) The proximity of the site to major population centers.

(3) The presence of active earthquake faults.

(4) Geologic and other natural barriers which protect against surface or groundwater contamination.

(5) The effectiveness of engineered barriers, waste treatment, and waste packaging in ensuring isolation of the waste from the environment.

(6) Transportation of radioactive materials as it relates to public health and safety.

(7) The relative economic impact of location and operation of treatment or disposal facilities.

This element of the plan shall be completed and submitted to the appropriate committees of each house of the Legislature on or before December 31, 1982.

(d) A plan of action to minimize the environmental, occupational, and public health impact of low-level radioactive waste and to protect the public health and safety by encouraging a reduction in the amount and toxicity of waste produced. This activity shall include conducting or having studies conducted which evaluate the technical and economic feasibility of (1) reducing the volume, reactivity, and chemical and radioactive hazard of such waste, (2) cleaning contaminated, nonactivated metals and other materials to permit their recycle and reuse, and (3) substituting nonradioactive or short-lived radioactive materials for those radionuclides which require long-term isolation from the environment. The results of these studies, along with the departmental recommendations for their implementation, shall be reported by the department to the appropriate committees of the Legislature on or before December 31, 1983.

(e) Within six months after the effective date of the act amending this section during the 1983–84 Regular Session of the Legislature, the Governor shall direct the appropriate state agency or agencies, as determined by the Governor, to conduct and complete a study which identifies those regions of the state within which it is likely the criteria developed pursuant to subdivision (c) could be met. The state agency or agencies, so directed, may also request, when appropriate, the assistance of state or federal agencies or private

organizations.

SEC. 5. Section 25812 of the Health and Safety Code is amended to read:

25812. (a) The department shall not grant any license to receive radioactive material from other persons for disposal on land unless all of the following requirements are satisfied:

(1) The land on which the radioactive wastes are to be buried is owned by the federal or state government.

(2) The department determines that the site is consistent with the public health and safety.

(3) The applicant for the license will comply with the emergency regulations adopted by the department pursuant to subdivision (b).

(b) Not later than six months after the effective date of the act amending this section during the 1983-84 Regular Session of the Legislature, the department shall adopt emergency regulations for the licensing of those persons engaged in the disposal of low-level radioactive waste and for implementing this chapter. The emergency regulations shall be consistent with the federal regulations found in Sections 301 through 311, inclusive, of Part 20 of Title 10 and in Part 61 of Title 10 of the Code of Federal Regulations (Federal Register, Vol. 47, No. 28, page 57446, December 27, 1982) and shall be adopted solely for the purposes of clarifying and rendering specific, for application in California, these federal regulations and implementing this chapter.

(c) The emergency regulations specified in subdivision (b) shall be adopted by the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, any emergency regulations adopted by the department pursuant to this subdivision shall not be repealed by the Office of Administrative Law and shall remain in effect until revised or repealed by the department.

(d) The department may, by emergency regulation adopted in accordance with subdivision (c), establish and collect a fee for the issuance or renewal of a license specified in subdivision (a).

SEC. 6. Section 25812.4 is added to the Health and Safety Code, to read:

25812.4. The department may limit the number of licenses issued pursuant to Sections 25810, 25812, and 25812.5 authorizing the receipt of radioactive material from other persons for disposal on land.

SEC. 7. Section 25812.5 is added to the Health and Safety Code, to read:

25812.5. (a) All applicants filing a statement of capabilities and

notice of intention to file an application for a license to receive radioactive materials from other persons for disposal on land shall file the statement and notice within three months after the department adopts the emergency regulations specified in subdivision (b) of Section 25812. Within 45 days after the termination of that three-month filing period, the department shall evaluate the statements of capabilities and notices of intent. The director shall determine, within that 45-day period, whether the department has received one or more statements and notices which is likely to result in the filing of an application for a license satisfying the requirements of Section 25812.

(b) If the director determines, within the 45-day period specified in subdivision (a), that the department has received one or more statements of capabilities and notices of intent which are likely to result in the filing of an application for a license, the department shall, within the 45-day period, select one of the applicants who filed the statement of capabilities and notice of intent to file a license application as a license designee.

(c) The department shall adopt emergency regulations establishing procedures for the review and evaluation of the statements of capabilities and notices of intent, as specified in subdivision (a), and for the selection of a license designee, as specified in subdivision (b). These emergency regulations shall be adopted by the department in accordance with subdivision (c) of Section 25812 and shall include procedures for soliciting, evaluating, ranking, and designating license designees and for selecting alternative license designees based upon the ranking.

(d) The department may solicit additional statements of capabilities and notices of intent if a license designee withdraws or becomes ineligible for licensing, or if a license is issued and is then suspended, revoked, or terminated.

(e) The department may, by emergency regulations adopted in accordance with subdivision (c) of Section 25812, establish and collect a fee for filing a statement of capabilities and notice of intent.

(f) The department may require that a person selected as a license designee pursuant to this section post a bond of up to one million dollars ($1,000,000) to guarantee that the person will carry out the activities connected with completing the license application and obtaining the license. The department shall, by emergency regulation adopted in accordance with subdivision (c) of Section 25812, establish standards for the forfeiture of the bond.

SEC. 8. Section 25812.6 is added to the Health and Safety Code, to read:

25812.6. (a) If, within 45 days after the termination of the three-month filing period specified in subdivision (a) of Section 25812.5, the director determines that the department has not received a statement of capabilities and a notice of intent to file an application for a license to receive radioactive materials from other persons for disposal on land which is likely to result in the filing of

an application which satisfies the requirements of Section 25812, the director shall notify the Secretary of the Resources Agency.

(b) Within one year after receiving the notification specified in subdivision (a), the Secretary of the Resources Agency shall file with the department an application for a license to receive radioactive materials from other persons for disposal on land at a site within a region identified pursuant to subdivision (e) of Section 25811.5 and which is owned, operated, or both, by the state.

(c) (1) Upon the request of the Resources Agency, the Director of Finance may provide a loan from the General Fund to the Resources Agency for the purposes of implementing this section. The Resources Agency shall repay any loans made pursuant to this section pursuant to the terms and conditions prescribed by the Department of Finance, including interest at the rate set by the Pooled Money Investment Board pursuant to Section 16314 of the Government Code.

(2) The Director of Finance shall not provide more than two million dollars ($2,000,000) pursuant to this subdivision during the 1983–84 fiscal year. The amount for loans in the 1984–85 fiscal year, and subsequent fiscal years, shall be specified annually in the Budget Act and the total of all loans made pursuant to this subdivision shall not exceed fifteen million dollars ($15,000,000).

(d) If a radioactive materials disposal site which is owned, operated, or both, by the state is established pursuant to this section, the Secretary of the Resources Agency shall establish a schedule of fees to be charged each person who disposes of radioactive materials at the site. The schedule of fees shall be set at an amount sufficient to reimburse the state for any costs incurred in developing, constructing, and operating the site.

SEC. 9. Section 25812.7 is added to the Health and Safety Code, to read:

25812.7. The department may require that all schedules of fees charged for the disposal of radioactive material by a person owning or operating a site licensed pursuant to Section 25812 are to be submitted to the department prior to their implementation. The department may determine, following a public hearing and based upon written findings, if the fees to be charged are reasonable and may require the owner or operator to modify the fee schedule if so determined by the department.

SEC. 10. Section 25813 of the Health and Safety Code is amended to read:

25813. (a) The department is authorized, pursuant to subdivision (d), to establish and operate, or contract for the establishment and contract for operation, of one or more low-level radioactive waste interim storage facilities for the exclusive use of persons located in California who are licensed by the department or the United States Nuclear Regulatory Commission.

(b) In addition to the fees authorized to be levied pursuant to Sections 25811.7 and 25816, the department is authorized to set and

collect fees, by regulation, to be paid by generators in California of low-level radioactive waste in an amount sufficient to support the development and operation of such facilities including the surveillance and repair of damaged packages, maintenance of the facilities, decontamination, decommissioning, and postclosure maintenance of these facilities, recordkeeping systems, and such other activities as the department finds necessary to ensure the safe operation of such a facility. In no event shall any fee be set in an amount which exceeds the amount reasonably necessary to implement the provisions of this section. The department is also authorized to require the operators or the users of such facilities to post bonds or possess adequate insurance as may be reasonably necessary to protect the state against such liabilities as storage and ultimate disposal costs for abandoned waste and against claims arising out of accidents or failures of the storage facility.

(c) All users of any facility operated pursuant to this section must all meet state and federal orders, requirements, or regulations for handling and management of low-level radioactive waste including those prescribed pursuant to subdivision (b) of Section 25811.5.

(d) No low-level radioactive waste interim storage facility may be established pursuant to subdivision (a) until all of the following occurs:

(1) The department has fulfilled the requirements of subdivisions (a) and (b) of Section 25811.5 and has submitted its findings to the Legislature.

(2) The establishment of the interim storage facility is consistent with the elements of the low-level radioactive waste disposal plan specified in subdivisions (a) and (b) of Section 25811.5.

(3) The department files a notice with the Legislature, while in session, 60 days before establishing the facility.

(e) In addition to any other grounds authorizing the department, or any person with whom it contracts, to cease the operation of a low-level radioactive waste interim storage facility, any such facility shall cease accepting low-level radioactive waste for interim storage (1) no later than five years after the date it commences operating or (2) if the director determines that an alternate disposal site is available to California licensees in the western region of the United States, whichever event occurs first.

(f) Within seven years of commencing operation of any interim storage facility all wastes stored at the facility shall be transferred to a permanent land burial disposal site or permanently disposed of by some other treatment or means of disposal and the facility shall be closed and thereafter, to the extent necessary, as determined by the department, decontaminated and decommissioned.

(g) This section shall remain in effect for a period of eight years from the date of the establishment of a low-level radioactive waste interim storage facility pursuant to this section, and as of such date is repealed. The director shall report the date the facility is established to the appropriate committees of each house of the

Legislature and the Legislative Counsel Bureau.

SEC. 11. Section 25813.5 is added to the Health and Safety Code, to read:

25813.5. The Governor shall negotiate and enter into interstate agreements, interstate compacts, or agreements with compacts, for the purpose of establishing access to, or maintaining access to, land disposal facilities for low-level radioactive waste generated in California. The terms of the agreement or compact may include, but are not limited to, a provision that the other parties to the agreement or compact will have reciprocal access to California permanent disposal facilities, when operational.

The Governor shall report to the Legislature on the status of these negotiations within four months after the effective date of the act adding this section during the 1983–84 Regular Session of the Legislature, and every four months thereafter, until an agreement or compact is entered into or the negotiations are terminated.

Any agreement or compact that proposes membership for California in a compact made pursuant to the Low-Level Radioactive Waste Policy Act (42 U.S.C. Secs. 2021b to 2021d, inclusive) or any interstate agreement or agreement with a compact that includes a provision that the other parties to the agreement will have reciprocal access to California permanent disposal facilities, when operational, shall be submitted to the Legislature for ratification by statute.

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.

SEC. 13. 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. 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 to assure the continued availability of safe methods for the management and disposal of low-level radioactive waste generated by California's licensees, it is necessary that this act take effect immediately.

CHAPTER 1178

An act to amend Section 3496 of the Civil Code, relating to nuisances.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 3496 of the Civil Code is amended to read:

3496. In any of the following described cases, the court may award costs, including the costs of investigation and discovery, and reasonable attorneys' fees, which are not compensated for pursuant to some other provision of law, to the prevailing party:

(a) In any case in which a governmental agency seeks to enjoin the sale, distribution, or public exhibition, for commercial consideration, of obscene matter, as defined in Section 311 of the Penal Code.

(b) In any case in which a governmental agency seeks to enjoin the use of a building or place for the purpose of illegal gambling, lewdness, assignation, or prostitution; or any case in which a governmental agency seeks to enjoin acts of illegal gambling, lewdness, assignation, or prostitution in or upon a building or place, as authorized in Article 2 (commencing with Section 11225) of Chapter 3 of Title 1 of Part 4 of the Penal Code.

SEC. 2. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the Legislature 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 1179

An act to repeal Sections 118.8 and 118.9 of the Streets and Highways Code, relating to state highways.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 118.8 of the Streets and Highways Code is repealed.

SEC. 2. Section 118.9 of the Streets and Highways Code is repealed.

CHAPTER 1180

An act to amend Section 20205.4 of the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 20205.4 of the Government Code is amended to read:

20205.4. In addition to such other investments as are authorized by this article, the board may invest in real estate and leases thereof and improvements thereon for business or residential purposes as an investment for the production of income.

CHAPTER 1181

An act to add Article 6 (commencing with Section 70100) to Chapter 1 of Part 43 of the Education Code, relating to the California Maritime Academy, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Article 6 (commencing with Section 70100) is added to Chapter 1 of Part 43 of the Education Code, to read:

Article 6. California Maritime Academy Continuing Education Revenue Fund

70100. Notwithstanding Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code and any provision of law to the contrary, revenues received by the Board of Governors of the California Maritime Academy from extension programs and other self-supporting instructional programs, including, but not limited to, fees and charges required by the Board of Governors, shall be transmitted to the Treasurer and shall be deposited by that officer in the State Treasury to the credit of the California Maritime Academy Continuing Education Revenue Fund, which fund is hereby created.

70101. Notwithstanding Section 13340 of the Government Code, all moneys in the California Maritime Academy Continuing Education Revenue Fund are hereby appropriated, without regard

to fiscal year, to the Board of Governors for the support and improvement of the California Maritime Academy. However, any proposed expenditures or obligations to be incurred during any fiscal year from the California Maritime Academy Continuing Education Revenue Fund shall be contained in the budget submitted for that fiscal year by the Governor pursuant to Section 12 of Article IV of the Constitution and shall be subject to 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.

70102. Moneys in the California Maritime Academy Continuing Education Revenue Fund may be invested by the Treasurer, upon approval of the Board of Governors, in those eligible securities listed in Section 16430 of the Government Code. All interest or other earnings received pursuant to those investments shall be collected by the Treasurer and shall be deposited in the State Treasury to the credit of the California Maritime Academy Continuing Education Revenue Fund.

SEC. 2. The Legislative Analyst shall submit a report to the Legislature, as part of the Legislative Analyst's analysis of the 1985–86 Budget Bill, summarizing the fiscal condition of the California Maritime Academy Continuing Education Revenue Fund. The report shall include a projection of future revenues and the date by which no further General Fund moneys shall be necessary for programs supported by the California Maritime Academy Continuing Education Revenue Fund.

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

In order that the provisions of this act may be operative during the entire 1983–84 fiscal year, and to facilitate the orderly administration of the California Maritime Academy Continuing Education Revenue Fund, it is necessary that this act take effect immediately.

CHAPTER 1182

An act to add Section 25612 to the Health and Safety Code, relating to radioactive waste.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 25612 is added to the Health and Safety Code, to read:

25612. The department, utilizing available funds and in cooperation with the Department of Fish and Game and the Joint

Legislative Committee on Fisheries and Aquaculture, shall:

(a) Cooperate with any federal agency that conducts monitoring of marine life or ocean waters, or both, at the sites of radioactive waste dumping off the California coast to determine the effects of the dumping.

(b) Purchase and test samples of seafood taken in the vicinity of the Farallon Islands radioactive waste dump site to determine whether the seafood contains radioactivity beyond natural and artificial background levels.

(c) Establish a scientific advisory committee on ocean dumping of radioactive waste. The committee shall include, but not be limited to, scientists from the staffs of the department, the Department of Fish and Game, the California Coastal Commission, the Senate Office of Research, the Assembly Office of Research, the faculties of the University of California and the California State University, and private nonprofit marine resource and public policy organizations. The advisory committee shall meet at least once a year and design the procedures for the testing required by subdivision (b), subject to approval by the department. The advisory committee shall also analyze the results of the monitoring conducted pursuant to subdivision (a) and the testing conducted pursuant to subdivision (b), and make any recommendations that it deems appropriate to the department, the Department of Fish and Game and the Legislature. The members of the committee shall serve without compensation.

(d) Make annual reports to the Legislature on the implementation of this section, including any recommendations for legislation it deems necessary to protect the health of Californians.

CHAPTER 1183

An act relating to claims, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. The sum of one million one hundred twelve thousand four hundred forty-seven dollars and fifty-nine cents ($1,112,447.59) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund	$234,085.99
Automotive Repair Fund	53.00
Energy Resources Conservation	

& Development Special Account	332.56
Fish and Game Preservation Fund	329,723.99
Health Facilities Authority Fund	283.04
Board of Medical Quality Assurance Contingent Fund	159,051.80
Real Estate Fund	195.00
State Compensation Insurance Fund	2,921.71
Transportation Fund, Motor Vehicle Account	8,321.64
Transportation Fund, Motor Vehicle Account (CHP)	315.00
Transportation Fund, Motor Vehicle Account (DMV)	65.00
Transportation Fund, Motor Vehicle License Fee Account	1,299.00
Transportation Fund, Off-Highway Fuel Account	12.00
Transportation Fund, Off-Highway License Fee Account	4.00
Transportation Fund, State Highway Account	6,573.15
Transportation Tax Fund, Motor Vehicle Fuel Account	29,732.22
Unemployment Administration Fund	.60
Unemployment Compensation Disability Fund	267.43
Unemployment Compensation Disability Insurance Fund	41.86
Unemployment Fund	1,322.18
Water Resources Revolving Fund	17,060.91
Item 192-001-835, Budget Act of 1981	5,962.91
Item 0650-001-001, Budget Act of 1983	131.50
Item 0820-001-001(A), Budget Act of 1983	422.50
Item 0820-001-001(G), Budget Act of 1983	4,158.87
Item 0840-001-001(A), Budget Act of 1983	574.42
Item 0860-001-001(A), Budget Act of 1983	82.24
Item 0860-001-001(B), Budget Act of 1983	173.10
Item 0890-001-001(A), Budget Act of 1983	127.36
Item 0950-001-001(B), Budget Act of 1983	393.99
Item 1655-090-702(A), Budget Act of 1983	320.90
Item 1655-090-702(B), Budget Act of 1983	50.00
Item 1655-090-702(C), Budget Act of 1983	128.36
Item 1700-001-001(B), Budget Act of 1983	420.00
Item 1705-001-001(B), Budget Act of 1983	2,229.88
Item 1730-001-001(A), Budget Act of 1983	803.24
Item 1740-001-044(D), Budget Act of 1983	1,262.80
Item 1760-001-666, Budget Act of 1983	1,530.47
Item 1760-001-666(A), Budget Act of 1983	5,609.18
Item 1760-001-666(B), Budget Act of 1983	85.80
Item 1900-001-830(D), Budget Act of 1983	802.59
Item 1960-001-001(A), Budget Act of 1983	10,878.53
Item 1960-001-001(B), Budget Act of 1983	2,552.81

Item 2240-001-001(H), Budget Act of 1983	282.00
Item 2290-001-001(C), Budget Act of 1983	2,704.80
Item 2320-001-317, Budget Act of 1983	240.00
Item 2660-001-042(A), Budget Act of 1983	16,778.86
Item 2720-001-044(A), Budget Act of 1983	14,374.83
Item 2740-001-044, Budget Act of 1983	371.88
Item 2740-001-044(D), Budget Act of 1983	2,019.11
Item 2790-001-001(B), Budget Act of 1983	2,766.00
Item 3340-001-001(D), Budget Act of 1983	1,586.54
Item 3360-001-019(B), Budget Act of 1983	603.12
Item 3490-001-001(A), Budget Act of 1983	439.58
Item 3540-001-001(D), Budget Act of 1983	2,360.21
Item 3600-001-200(B), Budget Act of 1983	6,783.40
Item 3790-001-001(A), Budget Act of 1983	4,737.53
Item 3790-001-001(B), Budget Act of 1983.....	2,340.64
Item 3860-001-001(A), Budget Act of 1983	530.40
Item 3860-001-001(E), Budget Act of 1983	303.45
Item 4140-001-001, Budget Act of 1983	435.43
Item 4260-001-001(A), Budget Act of 1983	1,213.02
Item 4260-001-001(D), Budget Act of 1983	413.16
Item 4260-001-001(K), Budget Act of 1983	23,823.14
Item 4260-001-890, Budget Act of 1983	223.25
Item 4300-001-001(C), Budget Act of 1983	126.04
Item 4300-001-011(G), Budget Act of 1983	19,451.90
Item 4300-101-001(N), Budget Act of 1983	42,531.74
Item 4440-001-001, Budget Act of 1983	336.64
Item 4440-001-001(B), Budget Act of 1983	14,481.96
Item 4440-101-001(E), Budget Act of 1983	10,867.46
Item 5100-001-001(C), Budget Act of 1983	9,503.33
Item 5100-001-870, Budget Act of 1983	5,945.24
Item 5100-001-870(A), Budget Act of 1983	2,565.81
Item 5160-001-001(D), Budget Act of 1983	605.43
Item 5180-001-001(F), Budget Act of 1983.....	11,071.90
Item 5240-001-001, Budget Act of 1983	420.00
Item 5240-001-001(A), Budget Act of 1983.....	46,471.89
Item 5240-001-001(C), Budget Act of 1983.....	3,704.39
Item 5440-001-001, Budget Act of 1983	1,737.81
Item 5460-001-001(B), Budget Act of 1983	10,755.19
Item 6100-001-001(B), Budget Act of 1983	419.12
Item 6100-001-001(D), Budget Act of 1983	65.24
Item 6360-001-407(A), Budget Act of 1983	625.00
Item 6360-001-407(B), Budget Act of 1983	51.20
Item 6610-001-001, Budget Act of 1983	80.00
Item 6610-001-001(A), Budget Act of 1983	390.00
Item 6610-001-001(E), Budget Act of 1983.....	3,148.41
Item 6610-001-001(F), Budget Act of 1983	1,690.48
Item 6860-001-001(B), Budget Act of 1983	369.37
Item 8300-001-001(C), Budget Act of 1983.....	587.45
Item 8350-001-001(H), Budget Act of 1983	4,772.14

Item 8570-001-001(A), Budget Act of 1983	1,663.32
Item 8570-001-001(B), Budget Act of 1983	1,300.00
Item 8570-001-001(H), Budget Act of 1983	1,015.25
TOTAL	$1,112,447.59

SEC. 2. It is the intent of the Legislature that, when submitting approved claims to the Legislature pursuant to Section 13928 of the Government Code, the State Board of Control shall identify in the documents supporting each appropriations bill any and all claims that arise from contractual obligations which resulted from representations made by state employees or officers who were not reasonably authorized to make those representations.

SEC. 3. It is the intent of the Legislature that claims for reimbursement for destroyed property pursuant to Section 15512 of the Fish and Game Code in the amount of three hundred twenty-nine thousand five hundred seventy-two dollars and fifty-eight cents ($329,572.58) which shall be appropriated from the unappropriated surplus of the Fish and Game Preservation Fund, will be repaid from the Aquaculture Disease Compensation Account in the General Fund at such time that funds become available in the Aquaculture Disease Compensation Account.

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 settle claims against the state and end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1184

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 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. The sum of two million five hundred fifty-one thousand three hundred seventy-nine dollars and four cents ($2,551,379.04) 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	$304,670.60

Transportation Fund	
Motor Vehicle Account	3,856.00
Motor Vehicle Account (CHP)	2,240,244.70
Motor Vehicle License Fee Account	2,345.00
Item 1710-001-001(B), Budget Act of 1982	262.74
Total	$2,551,379.04

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 end a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1185

An act to amend Section 16367.5 of, and to add Sections 16367.6 and 16367.9 to, the Government Code, relating to fiscal affairs.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) Residential utility costs have dramatically escalated during the last several years. This significant increase in residential energy costs has the greatest impact on those individuals who have the least ability to pay for them.

(b) Although there are federal Low-Income Energy Assistance funds available to assist low-income families, the present manner of distribution of these funds does not ensure that all needy low-income households receive assistance in a timely manner or that the funds are necessarily used for their intended purpose.

(c) The distribution plan also does not serve the newly poor; those who have recently lost their jobs due to the declining state of the economy.

(d) The provisions of this act are intended to provide for specific changes in the state's administration of low-income energy assistance programs to ensure that these programs efficiently and effectively distribute funds to the broadest range of qualified households. Further, the provisions of this act require the State Office of Economic Opportunity to report to the Legislature by January 1, 1985, relative to additional specific improvements to the state's distribution system.

SEC. 1.5. Section 16367.5 of the Government Code is amended to

read:

16367.5. The State Office of Economic Opportunity shall receive and administer the federal Low Income Home Energy Assistance Block Grants, and shall allocate funds received as follows:

(a) For crisis intervention, which shall consist solely of emergency assistance to eligible individuals for programs specified in this subdivision who give evidence of the following conditions: (1) proof of utility shutoff notice, (2) proof of energy termination, (3) insufficient funds to establish a new energy account, and insufficient funds to pay a current or delinquent utility bill. The crisis intervention program shall not include advocacy, community mobilization or community planning and education. The program shall include activities to enroll eligible individuals.

An amount not to exceed 10 percent of the total federal allocation for weatherization services for eligible individuals for programs specified in this subdivision, subject to reduction in the Budget Act.

For the purposes of this subdivision these services shall be available only to recipients of aid or persons eligible for aid under Chapter 2 (commencing with Section 11200) and Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, county general assistance recipients under Part 5 (commencing with Section 17000) of Division 9 of the Welfare and Institutions Code, of the Food Stamp Program.

(b) Five percent of the total federal allocation for purposes of administration. An additional 2.5 percent of the total federal allocation shall be set aside for administrative purposes and made available upon request of the Department of Finance and pursuant to Section 28 of Chapter 99 of the Statutes of 1981.

(c) An amount not to exceed 10 percent of the total federal allocation to the State Department of Social Services for social service programs under Chapter 5 (commencing with Section 13000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) The remainder of the total federal allocation of aid to recipients of Aid to Families with Dependent Children and the Supplemental Security Income/State Supplementary Program for home energy costs.

SEC. 2. Section 16367.6 is added to the Government Code, to read:

16367.6. (a) The State Office of Economic Opportunity shall receive and administer all state and federal funds which are allocated for programs to provide energy assistance to qualified low-income individuals only, except for those funds which are allocated to, and distributed by, the California Energy Extension Service.

(b) No later than November 1, 1984, the State Office of Economic Opportunity shall promulgate a comprehensive procedure to assure that those energy assistance funds are utilized in the most productive and efficient manner, including a distribution system whereby all funds allocated for direct assistance payments are distributed by state and local agencies directly to the electrical or gas corporations

or other suppliers of energy on behalf of the qualified low-income individuals or by two-party checks made payable to both the energy supplier and the individual. In establishing this system, the State Office of Economic Opportunity shall consult with representatives of electrical or gas corporations or other suppliers of energy and with local agencies that participate in distributing assistance funds.

The State Office of Economic Opportunity shall have the discretion to adjust payments to the energy supplier or the individual or to make direct payments to the individual for payment to an energy supplier in special or unique circumstances not otherwise provided for in this section.

SEC. 3. Section 16367.9 is added to the Government Code, to read:

16367.9. No later than January 1, 1985, the State Office of Economic Opportunity shall submit a report to the Legislature on the following issues:

(a) The need to modify the state distribution system for federal low-income energy assistance funds to change the percentage allocation for energy crisis intervention programs and to change the relative allocation for low-income home energy assistance programs.

(b) The need to modify the state distribution system to change the percentage allocation for weatherization programs to reach the maximum allowed by federal guidelines.

(c) The adequacy of current statutory criteria to determine eligibility for all federally-funded energy assistance programs, including assessment of methods permissible under federal law to provide assistance to those individuals who require the assistance on a temporary basis as a result of current economic conditions.

CHAPTER 1186

An act to add Section 202.7 to the Code of Civil Procedure, relating to jury duty.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 202.7 is added to the Code of Civil Procedure, to read:

202.7. Any member of the armed services who does not have his or her domicile in California is exempt from jury service. For the purposes of this section, domicile shall be determined as provided by Article 2 (commencing with Section 200) of Chapter 1 of Division 1 of the Elections Code.

CHAPTER 1187

An act to amend Section 70 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 70 of the Revenue and Taxation Code is amended to read:

70. (a) "Newly constructed" and "new construction" means:

(1) Any addition to real property, whether land or improvements (including fixtures), since the last lien date; and

(2) Any alteration of land or of any improvement (including fixtures) since the last lien date which constitutes a major rehabilitation thereof or which converts the property to a different use.

(b) Any rehabilitation, renovation, or modernization which converts an improvement or fixture to the substantial equivalent of a new improvement or fixture is a major rehabilitation of such improvement or fixture.

(c) Notwithstanding the provisions of subdivisions (a) and (b), where real property has been damaged or destroyed by misfortune or calamity, "newly constructed" and "new construction" does not mean any timely reconstruction of the real property, or portion thereof, where the property after reconstruction is substantially equivalent to the property prior to damage or destruction. Any reconstruction of real property, or portion thereof, which is not substantially equivalent to the damaged or destroyed property, shall be deemed to be new construction and only that portion which exceeds substantially equivalent reconstruction shall have a new base year value determined pursuant to Section 110.1.

(d) (1) Notwithstanding the provisions of subdivisions (a) and (b), where a structure must be improved to comply with local ordinances on seismic safety, "newly constructed" and "new construction" does not mean the portion of reconstruction or improvement to a structure, constructed of unreinforced masonry bearing wall construction, necessary to comply with the local ordinance. This exclusion shall remain in effect during the first 15 years following that reconstruction or improvement (unless the property is purchased or changes ownership during that period, in which case the provisions of Chapter 2 (commencing with Section 60) of this division shall apply).

(2) In the sixteenth year following the reconstruction or improvement referred to in paragraph (1), the assessor shall place on the roll the current full cash value of the portion of reconstruction or improvement to the structure which was excluded pursuant to this

subdivision.

(3) The governing body which enacted the local ordinance shall issue a certificate of compliance upon the request of the owner who, pursuant to a notice or permit issued by the governing body which specified that the reconstruction or improvement is necessary to comply with a seismic safety ordinance, so reconstructs or improves his or her structure in accordance with the ordinance. The certificate of compliance shall be filed by the property owner with the county assessor on or before the following April 15. The provisions of this subdivision shall not apply to any structure for which a certificate is not filed.

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 duties, obligations, or responsibilities imposed on local government by this act were expressly included in a ballot measure approved by the voters in a statewide election.

SEC. 3. The provisions of this act shall become operative only if Senate Constitutional Amendment No. 14 of the 1983–84 Regular Session of the Legislature is approved by the voters.

CHAPTER 1188

An act to amend, add, and repeal Section 71702 of the Government Code, relating to courts.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 71702 of the Government Code is amended to read:

71702. (a) Each justice court judge shall receive the annual salary set forth in subdivision (b) of Section 68202 if each of the following conditions are met:

(1) The judge has been a member of the State Bar for the immediately preceding five years.

(2) The judge has filed with the Judicial Council a certificate of his status as an inactive member of the State Bar.

(3) The Chairman of the Judicial Council has certified that the judge is acceptable for judicial assignments to other courts after a determination of need and available funding.

(b) The salaries provided by this section shall be paid by the counties and shall be adjusted annually under the formula specified in Section 68203, but the counties shall be reimbursed therefor from appropriations made for that purpose by the state or from any funds made available to the Judicial Council for the assignment of judges.

(c) This section shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date.

SEC. 2. Section 71702 is added to the Government Code, to read:

71702. (a) Each justice court judge shall receive an annual salary of thirty thousand dollars ($30,000) if each of the following conditions are met:

(1) The judge has been a member of the State Bar for the immediately preceding five years.

(2) The judge has filed with the Judicial Council a certificate of his status as an inactive member of the State Bar.

(3) The Chairman of the Judicial Council has certified that the judge is acceptable for judicial assignments to other courts after a determination of need and available funding.

(b) The salaries provided by this section shall be paid by the counties and shall be adjusted annually under the formula specified in Section 68203, but the counties shall be reimbursed therefor from appropriations made for that purpose by the state or from any funds made available to the Judicial Council for the assignment of judges.

SEC. 3. Section 2 of this act shall become operative on January 1, 1990.

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. It is the intent of the Legislature that the State Board of Control consider the provisions of Section 1 of this act as constituting cost-of-living salary increases rather than a higher level of service for which reimbursement is required.

CHAPTER 1189

An act to amend Sections 3, 9, 27.5, and 27.6 of, to add Sections 15.5 and 36 to, and to repeal and add Sections 10 and 32 of, the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), relating to the Yolo County Flood Control and Water Conservation District.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 3 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) 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 and flood 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, either within or without the district, to take any property necessary to carry out any of the objects or purposes of this act.

No action in eminent domain to acquire property or interests therein outside the boundaries of Yolo County shall be commenced unless the board of supervisors of each affected county has consented to such acquisition by resolution.

(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 any 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. Cost of relocating or otherwise changing any portion of a state highway shall not be paid from funds appropriated for state highway purposes,

except that such funds may be used for betterment thereof in connection with such relocation or change.

(h) To construct, maintain, repair and operate all levees, bulkheads, walls of rock or other material, pumps, dams, channels, conduits, pipes, ditches, canals, reservoirs, tunnels, drains, 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 deem advisable, a clerk, superintendent of work, assessor, treasurer and collector and define their powers and duties, and fix and determine the amount of bond required of each appointee 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 funds 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 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 contract 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 or rights or the construction, maintenance and operation, or the joint financing or use in whole or in part of any or all works and improvements provided in this act, including contracts with the State of California, the United States or any other public entity (1) for loans to finance planning, acquisition, construction, operation or maintenance of such works and improvements and lands, easements,

and rights-of-way therefor, and (2) for grants for recreational or fish and wildlife enhancement benefits of such works and improvements, and to do any and all things required to carry out such contracts.

An action to determine the validity of any such contract may be commenced and prosecuted under the procedure set forth in Section 21 of 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 herein provided 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 waters and water rights, useful or necessary to make use of water for any 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 the lands or inhabitants within the district, including, but not limited to, the acquisition, storage, and distribution for irrigation, domestic, fire protection, municipal, commercial, industrial, and all other beneficial uses.

Water which is surplus to the needs of the lands and inhabitants within the district may be made available for beneficial use outside the district pursuant to rules and regulations prescribed under subdivision (v) of this Section 3.

(r) To control flood and storm waters within the district and the flood and storm waters of streams outside of 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 waters in natural underground reservoirs and otherwise to reduce the waste of water and to protect life and property from floods within the district.

(s) To cooperate and to act in conjunction with the State of California, or any of its engineers, officers, boards, commissions, departments or agencies, or with the government of the United States, or any of its engineers, officers, boards, commissions, departments or agencies, or with any public or private corporation, or with the County of Yolo, 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 Yolo County Flood Control and Water Conservation District; to acquire 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 or right to store such water in any reservoir of the district, or to carry such water through any tunnels, canal, ditch, or conduit of 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 of any water right or water pumped, stored, appropriated or otherwise acquired or secured, for the use of the Yolo 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 commence, maintain, intervene in, defend and compromise in the name of the district, or otherwise, and to assume the costs 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 common benefit to any lands situated therein, or involving the wasteful use of water therein, to commence, maintain, intervene in,

defend and compromise and to assume the costs and expenses of any and all actions and proceedings now or hereafter begun to prevent interference with or diminution of the 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; or for the declaration or adjudication of rights in such waters; 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 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; provided further, that this subdivision (u) shall not limit or impair in any manner whatsoever the right or rights of any landowner to commence, defend, or enter into any compromise agreement in regard to actions or proceedings respecting any water right or rights in which such landowner may have an interest.

(v) To prescribe reasonable rules and regulations and to fix and collect rates, tolls or charges for any water or service or facilities furnished, sold or leased by the district.

(w) To construct, operate, and maintain works to develop hydroelectric energy and transmission lines for the conveyance thereof. The power generated may be used by the district for its purposes, or for the production or transmission of water, but shall not be offered for sale directly by the district to customers other than to a public utility or another public agency. Notwithstanding any other provision of this act or any other provision of law, the power to construct, operate, or maintain works to develop hydroelectric energy and transmission lines for the conveyance thereof shall not include the acquisition of property or works employed in the generation of hydroelectric energy for public utility purposes, except by mutual agreement between the district and the owner of the property or works.

SEC. 2. Section 9 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is amended to read:

Sec. 9. 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. The board is authorized to hold, use, acquire, manage, occupy and possess the property, as provided herein. If the board determines by resolution duly passed and entered in its 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 the property, or lease the same, in the manner provided by law for the disposition and sale of property of counties pursuant to Article 8 (commencing with Section 25520) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code. As an alternative to selling or disposing of district property in the manner provided for the sale or disposition of county property, the district may, upon the unanimous vote of the board, negotiate the sale or disposition upon the best terms available to the district. If the board determines by resolution duly passed and entered in its minutes that any district property, real or personal, may be leased or an interest granted therein for a use or purpose that will not interfere with or be inconsistent with the uses and purposes of the district, the board may thereafter lease or grant an interest in the property for that use or purpose in the manner provided by law for the lease of or grant of interests in property of counties pursuant to Article 8 (commencing with Section 25520) of Chapter 5 of Part 2 of Division 2 of Title 3 of the Government Code. As an alternative to leasing or granting an interest in the property in the manner provided for the lease of or grant of interests in county property, the district may, upon the unanimous vote of the board, negotiate the lease or grant of interest in the property for that use or purpose upon the best terms available to the district.

SEC. 3. Section 10 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is repealed.

SEC. 4. Section 10 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec. 10. All contracts for the construction of any unit of work, except as provided, estimated to cost in excess of five thousand dollars ($5,000) shall be let to the lowest responsible bidder in the manner as provided.

The board shall advertise by three insertions in a daily newspaper of general circulation or two insertions in a weekly newspaper of general circulation published in the district inviting sealed proposals for the construction of the work before any contract shall be made therefor, and may let by contract separately any part of the work. The board shall require the successful bidder to file with the board good and sufficient bonds to be approved by the board conditioned upon the faithful performance of the contract and upon the payment of the claims for labor and material in connection therewith. The board may reject any and all bids.

If all proposals are rejected or no proposals are received pursuant to advertisement therefor, or where the estimated cost of the work does not exceed the sum of five thousand dollars ($5,000) or where the work consists of channel protection, or maintenance work, or emergency work necessary in order to protect life and property from impending flood damage, the board, by unanimous vote of all members present, may, without advertising for bids therefor, have

the work done by force account. The district may purchase in the open market, without advertising for bids therefor, materials and supplies for use in any work either under contract or by force account.

The provisions of this section have no application to a contract entered into with the United States under the authority of Section 3 of this act, or to a contract authorized by a vote of the electorate of the district or zone.

SEC. 5. Section 15.5 is added to the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951), to read:

Sec. 15.5. This section sets forth an alternative procedure for the formation of zones within the district and the levy of assessments therein.

(a) The board may establish zones within the district without reference to the boundaries of other zones. The land comprising a zone need not be contiguous. A zone shall be established only with respect to a project for the benefit of the zone. Whenever the board determines that a zone should be formed for the purposes set forth in this act, the board shall adopt a resolution of intention which shall state the following:

(1) The intention of the board to form the proposed zone.

(2) The purpose for which the proposed zone is to be formed.

(3) The estimated expense of carrying out the purpose, if known.

(4) That assessments for carrying out the purpose shall be levied exclusively upon the lands in the proposed zone.

(5) That a map showing the exterior boundaries of the proposed zone, which map shall govern for all details as to the extent of the proposed zone, is on file with the district secretary and is available for inspection by any interested person.

(6) The time and place for a hearing by the board on the matters set forth in the resolution of intention.

(7) That at the time and place specified any interested person may appear and be heard.

(b) Notice of the hearing shall be given by publishing a copy of the resolution of intention in a newspaper of general circulation published in the County of Yolo, pursuant to Section 6066 of the Government Code, the first publication to be at least 14 days prior to the time fixed for the hearing.

(c) At the time and place so fixed, or at any time and place to which the hearing is continued, the board shall hold the hearing provided for by the resolution of intention, at which time any interested person may appear and be heard concerning any matter set forth in the resolution of intention or any matters material thereto. Upon the conclusion of the hearing, the board may abandon the proposal, modify it, or proceed with the proposal unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposal signed by persons owning a majority of the assessed value of lands within the proposed zone shall be filed

with the board, in which event further proceedings relating to the proposal shall be suspended for not less than six months following the date of the conclusion of the hearing.

(d) At the conclusion of the hearing, the board may, by resolution, order the zone formed for the purpose and with the exterior boundaries described therein. The resolution ordering formation shall state the estimated expense of carrying out the purpose described therein, if known. The resolution shall also number and designate the zone substanially as "Zone No. _____ of the Yolo County Flood Control and Water Conservation District."

(e) The district shall be authorized to levy benefit assessments on land only within any zone. The benefit assessment may be levied in any manner which reasonably reflects the benefit that will accrue to the area being assessed for the purpose of the assessment.

(f) Benefit assessments may be levied within a zone for expenditures made, or expenditures estimated to be required during the next calendar or fiscal year, for any lawful purpose of the district, including, but not limited to, the following purposes:

(1) The formation and administration expenses of the zone.

(2) Engineering and other expenses in connection with the investigation and preparation of a plan for a work or project of the zone.

(3) Acquisition or construction of any work or project of the zone.

(4) Operation and maintenance of any work or project of the zone.

(5) Payment of principal and interest on bonds issued for any work or project of the zone.

Revenues derived from the benefit assessment shall be used for no purpose other than the purpose specified at the time of levy of the assessment.

(g) The board may adopt a resolution of intention to levy a benefit assessment. The resolution shall set forth the proposed amount, manner of levy, and purpose of the proposed benefit assessment, shall designate by a map or otherwise the boundaries of the area to be assessed, and shall state the time and place for a hearing by the board on the matters set forth in the resolution of intention.

(h) At the time and place so fixed, or at any time or place to which the hearing is continued, the board shall hold the hearing provided for by the resolution, at which time any interested person may appear and be heard concerning any matter set forth in the resolution. Upon the conclusion of the hearing, the board may terminate further proceedings on the proposed assessment, modify the proposed assessment, order an election on the assessment within the area to be assessed, or levy the assessment, unless prior to the conclusion of the hearing, or any continued hearing, written protests against the proposed assessment signed by persons owning a majority of the assessed value of lands within the area to be assessed are filed with the board, in which event further proceedings related to the proposed assessment shall be suspended for not less than six months

following the date of the conclusion of the hearing. The board shall not levy the assessment without an election unless persons owning at least a majority of the assessed value of lands within the area to be assessed have filed with the board written consent to the levy of the assessment. If any election is held, each voter shall have one vote for each one hundred dollars ($100) of assessed valuation or fraction thereof of land owned by him or her within the area in which the election is to be held. Assessed valuation shall be determined from the county's last equalized assessment roll. For land in multiple ownership, the owner shall designate, in writing to the district before the election, one owner of the land for voting purposes. Where applicable, the owner shall designate, in writing to the district before the election, the legal representative who shall be entitled to vote on behalf of the owner. A majority of the votes cast at the election shall be required to approve the assessment.

(i) Assessments may be collected and enforced in the same manner as standby charges, in accordance with Sections 27.7 to 27.12, inclusive, of this act.

SEC. 6. Section 27.5 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is amended to read:

Sec. 27.5. So far as possible, the board shall fix the rates and charges (including the ground water charge) for water, service and benefit from its operation so as to pay such portion of the expenses of the district as the board determines to be justly apportionable to the furnishing of such water, service and benefit; provided, that the board shall not be precluded by this provision from using the tax authorized by Section 12 to help pay such expenses. The expenses to be paid include:

(a) The operating expenses of the district.

(b) Provision for a fund for repairs and depreciation of works owned or operated by the district.

(c) The interest on any bounded debt.

(d) Provision for a fund for payment of the principal of the bonded debt as it becomes due.

(e) Any other costs and expenses of constructing, maintaining, operating, purchasing or leasing works used in providing such water, service and benefit.

It is intended by this section that such rates and charges for water, service and benefit together with the tax authorized by Section 12 of this act shall be fixed so as to be sufficient to pay the interest and principal of any bonded debt incurred to finance the construction and acquisition of the works which provide such water, service and benefit; provided, that this section shall in no way impair the district's general obligation to bondholders to pay the interest and principal of bonds authorized under Section 16 of this act.

The district may, by resolution, provide that rates, charges, and assessments which remain unpaid for a period of not less than 30 days after they have become due shall be delinquent, and a one-time

penalty not in excess of 10 percent shall be added on each rate, charge, or assessment as it becomes delinquent, and all delinquent rates, charges, and assessments and penalties shall bear interest at a rate not in excess of 18 percent per year.

Delinquent rates, charges, and assessments, and penalties and interest thereon, are a lien on the land to which the service is provided or made available or for which the rate, charge, or assessment was levied, and may be enforced in the same manner as county tax liens.

SEC. 7. Section 27.6 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is amended to read:

Sec. 27.6. (a) The board may fix a water standby or availability charge for land within the district to which water is made available for any purpose by the district, whether the water is actually used or not. The charges may be restricted to lands lying within one or more improvement districts or zones or any portion thereof within the district. The charge shall not exceed ten dollars ($10) per acre per year for each acre of land within the district or any improvement district or zone thereof or ten dollars per year for any parcel of less than one acre. The board may establish schedules varying the charges depending upon, but not limited to, factors such as land uses, water uses, the cost of transporting the water to the land, and the degree of water availability.

(b) In order to fix the charges, the board shall first adopt a resolution initiating proceedings, which resolution shall include the following information:

(1) A description of the area to be subject to the charges.

(2) Whether the area is inhabited, in that there are 12 or more persons who reside and have been registered to vote within the area for at least 54 days prior to the date of adoption of the resolution, or uninhabited, in that there are less than 12 persons who reside and have been registered to vote within the area for at least 54 days prior to the date of adoption of the resolution.

(3) The proposed charges.

(4) A time, date, and place of hearing.

(5) That any interested person desiring to make written protest shall do so by written communication filed with the district not later than the hour set for the hearing. A written protest by a landowner shall contain a description sufficient to identify the land owned by him. A written protest by a voter shall contain the residential address of the voter.

(c) The secretary shall give notice of any hearing by the following:

(1) Publication of the resolution initiating proceedings pursuant to Section 6066 of the Government Code in a newspaper of general circulation within the area, or if none, within the district.

(2) Posting of the resolution initiating proceedings on or near the doors of the meeting place of the board or on any official bulletin board customarily used for the purpose of posting of public notices.

Publication and posting shall be completed at least seven days prior to the date set for hearing.

(d) The hearing on the proposed charges shall be held by the board upon the date and time specified in the resolution initiating proceedings. The hearing may be continued from time to time. At the hearing, the board shall hear and receive any oral or written protests, objections, or evidence which shall be made, presented, or filed. Any person who filed a written protest may withdraw the protest at any time prior to the conclusion of the hearing.

(e) A majority protest shall be deemed to exist and the proposed charges shall not be adopted if the board finds and declares by resolution that written protests filed not later than the hour set for the hearing, and not withdrawn prior to the conclusion of the hearing, represent the following:

(1) In the case of an inhabited area, more than 50 percent of the registered voters residing within the area.

(2) In the case of an uninhabited area, more than 50 percent of the assessed value of land therein.

A written protest by a resident voter shall contain his signature and a street and number of designation sufficient to enable the place of residence to be readily ascertained. A protest by a landowner shall contain his signature and a description of the land owned by him sufficient to identify the same. A public agency owning land shall be deemed a landowner for the purpose of making a written protest and determining the existence of a majority protest.

(f) The board shall determine the sufficiency of written protests as follows:

(1) If the protests are signed by resident voters, the secretary shall compare the names of the signers on the protests against the voters' register in the office of the county clerk or registrar of voters and ascertain therefrom the number of qualified signers appearing upon the protests.

(2) If the protests are signed by landowners, the secretary shall compare the names of the signers on the protests against the names of the persons shown as owners of land on the last equalized assessment roll of the county and ascertain therefrom:

(A) The total number of landowners owning land within the area which is the subject of the proposed charges and the total assessed valuation of all land within the area.

(B) The total number of landowners represented by qualified signers and the total assessed valuation of land owned by qualified signers.

(3) If a protest is signed by a landowner which is a public agency owning land within the area which is the subject of the proposed charges, the public agency shall be deemed a landowner for the purpose of the signing and certification of the protest. Any such public agency may authorize the protest to be signed for and on its behalf by any duly authorized officer or employee.

(4) In examining any petition signed by a landowner, the

secretary shall disregard the signature of any person not shown as owner on the last equalized assessment roll unless, prior to certification, the secretary is furnished with written evidence, satisfactory to the secretary, that the signer is a legal representative of the owner, is entitled to be shown as owner of land on the next assessment roll, is a purchaser of land under a recorded written agreement of sale, or is authorized to sign for and on behalf of any public agency owning land.

(5) If any person signing a protest as a landowner shall appear as owner on the last equalized assessment roll but be shown thereon as a partner, joint tenant, tenant in common, or husband or wife, the signature of the person shall be counted as if all the owners shown on the roll had signed.

(g) If a majority protest shall not have been filed, the board, not later than 30 days after the conclusion of the hearing, shall adopt a resolution and make one of the following determinations:

(1) Disapproving the proposed charges.

(2) Fixing the proposed charges in the area described.

SEC. 8. Section 32 of the Yolo County Flood Control and Water Conservation District Act (Chapter 1657 of the Statutes of 1951) is repealed.

SEC. 9. Section 32 is added to the Yolo County Flood Control and Water Conservation Act (Chapter 1657 of the Statutes of 1951), to read:

Sec. 32. Changes of organization shall be governed by the provisions of the District Reorganization Act of 1965 (Division 1 (commencing with Section 56000) of Title 6 of the Government Code). Noncontiguous territory may be annexed to or detached from the district.

SEC. 10. Section 36 is added to the Yolo County Flood Control and Water Conservation Act (Chapter 1657 of the Statutes of 1951), to read:

Sec. 36. The district shall be considered an "irrigation district" under the provisions of Section 831.8 of the Government Code.

CHAPTER 1190

An act relating to disposition and leasing of property by the Director of General Services, and making an appropriation therefor.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value, or for any lesser

consideration authorized by law, and upon those terms and conditions and with such reservations and exceptions which in his opinion may be in the best interest of the state, all or any part of the following real property:

PARCEL 1. Approximately 3 acres of land located at Patton State Hospital on the north side of Lynwood Drive, in the County of San Bernardino.

PARCEL 2. Approximately 3.25 acres of land located on the northerly side of Cypress Avenue in the City of Redding, being a portion of the Department of Fish and Game facilities in the County of Shasta.

PARCEL 3. Approximately 21.4 acres of land located on the south side of Bird Farm Road at Pomona Rincon Road in the County of San Bernardino, being currently known as the Chino Fish and Wildlife Base and formerly known as the Los Serranos Game Farm.

PARCEL 4. Approximately 28.31 acres of land located on the easterly side of Davis Road in the County of Riverside being a portion of San Jacinto Wildlife Area.

PARCEL 5. Approximately 40 acres of land at Sonoma State Hospital, situated along the facility's east boundary line adjacent to Highway Route 12 in Sonoma County.

SEC. 2. The Director of General Services, with the approval of the State Public Works Board is hereby authorized to exchange upon those terms, conditions, and with such reservations and exceptions which in his or her opinion may be in the best interest of the state, all or part of approximately 0.01 acre located on the northerly side of Meadow Drive in the County of Tuolumne, being a portion of the Twain Harte Forest Fire Station.

SEC. 3. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to exchange, or to sell for current market value, upon those terms, conditions, and with such reservations and exceptions which in his or her opinion may be in the best interest of the state, all or part of the following described property:

PARCEL 1. Approximately 0.09 acre of land being a portion of the Ventura County Trails project located south of West Main Street and west of the Ojai Freeway in the City of Ventura, County of Ventura.

SEC. 4. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to convey or exchange upon those terms, conditions, and with such reservations and exceptions which in his or her opinion may be in the best interest of the state, all or part of the following described property:

PARCEL 1. Approximately 0.03 acre of land being a portion of the Tahoe State Recreation Area located on the east side of State Highway Route 89, just south of the Truckee River, Placer County.

PARCEL 2. Approximately 1.02 acres being a portion of Chino

Hills located adjacent to the westerly boundary of Baldwin Company Ltd. at the terminus of Valley Center Drive in the City of Yorba Linda, Orange County.

PARCEL 3. Approximately 10.01 acres and the public pier at Avila State Beach, San Luis Obispo County.

PARCEL 4. Approximately 0.80 acre at Moonlight State Beach comprised of seven undeveloped lots in the Community of Encinitas, San Diego County.

SEC. 4.5. The Director of General Services, with the approval of the Director of Parks and Recreation, is hereby authorized to exchange for beach property of equal value and utility for state park purposes or to sell for fair market value upon those terms, conditions, and with such reservations and exceptions which in his or her opinion may be in the best interests of the state, to the City of Santa Monica, that, or a portion thereof, known as the Sand and Sea Club, located at 415 Palisades Beach Road, also known as Pacific Coast Highway, within the City of Santa Monica in the County of Los Angeles (Los Angeles County Assessor's Parcel No. 4293-17-901, 1983–84 roll). Any conveyance shall not include any lands, property, or other interests lying waterward of the 1921 Mean High Tide Line (established by survey ordered March 11, 1921, by Resolution No. 263 of the City Council of Santa Monica and adopted by Ordinance No. 188, Commissioner's Series on July 25, 1921, and recorded in Book 431 of Deeds at page 90) as located by that Record of Survey retracing that line filed January 3, 1980, in Book 90 of Surveys at page 39, in the Office of the Los Angeles County Records, as those lands are sovereign public trust lands of the state. The property, if conveyed, shall be subject to the conditions that it be used solely for public recreational purposes and that there shall be no discrimination in the use of the property against any person on account of race, color, religion, ancestry, sex, age, national origin, or physical handicap. The exchange or sale authorized in this section shall not be completed until it has been approved by the Joint Legislative Budget Committee.

SEC. 5. Notice of every public auction or bid opening shall be posted on the property to be sold and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated. All parcels in this act are exempt from the provisions of Sections 21100 to 21174, inclusive, of the Public Resources Code.

SEC. 6. Any cost or expense incurred in the disposition of any parcels may be reimbursed from the proceeds of that disposition.

SEC. 7. Subject to the provisions of Section 6 of this act, any moneys received from the disposition of any parcel in this act shall be paid into the General Fund, except as follows:

(a) Any money received from the disposition of Parcel 2 and Parcel 3 described in Section 1 of this act shall be deposited into the Fish and Game Preservation Fund.

(b) Any money received from the disposition of Parcel 4

described in Section 1 of this act shall be deposited into the Wildlife Restoration Fund.

(c) Any money received from the disposition of that parcel described in Section 4.5 of this act, up to five hundred thousand dollars ($500,000), shall be deposited into the State Park Contingent Fund and shall be continuously appropriated for the development of units in the state park system. Any money received in excess of five hundred thousand dollars ($500,000) shall be deposited in the State Parks and Recreation Fund.

SEC. 8. As to any property sold pursuant to this act containing 10 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights or entry. As to any such property sold containing more than 10 acres, the Director of General Services shall except and reserve in the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove the deposits. The rights to prospect for, mine, and remove shall be limited to those areas of property conveyed which the director determines to be reasonably necessary for the removal of the resources and deposits.

CHAPTER 1191

An act to amend Section 8897.1 of the Government Code, relating to natural disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 8897.1 of the Government Code is amended to read:

8897.1. To implement the foregoing responsibilities, the commission may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals, related to earthquake safety to advise the Governor and Legislature concerning the proposals, and to propose needed legislation.

(c) Recommend the addition, deletion, or changing of state agency standards when, in the commission's view, the existing situation creates undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings

as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study which is ordered or undertaken in any part of the state, administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) (1) Conduct a specific comprehensive investigation of the May 2, 1983, earthquake which devastated the City of Coalinga, focusing on commercial redevelopment, housing, land use planning, financing, codes and standards, and to provide funding and expert technical assistance to the people of Coalinga for planning and reconstruction.

(2) Prepare and publish, with the assistance and participation of other state, federal, and local government agencies and other knowledgeable investigators from the private sector, a comprehensive report on the Coalinga earthquake to include, but not be limited to, lessons learned for earthquake preparation and mitigation in California, an assessment of the earthquake's impact upon state and local seismic safety policies and programs, and to make recommendations to the Governor and the Legislature concerning the areas mentioned in this subdivision.

(f) In addition, the commission may perform any of the functions contained in subdivisions (a) to (e), inclusive, in relation to other disasters, as defined in subdivision (c) of Section 8897, in connection with issues or items reported or discussed with the Office of Emergency Services at any commission meeting.

SEC. 2. The sum of one hundred thousand dollars ($100,000) is hereby appropriated from the revenues received by the State Lands Commission, provided for in Section 6217 of the Public Resources Code, to the Seismic Safety Commission for the purpose of carrying out the provisions of subdivision (e) of Section 8897.1 of the Government 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 needed disaster relief afforded by this act may be rendered at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1192

An act to amend Section 33050 of the Education Code, relating to education.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 33050 of the Education Code is amended to read:

33050. (a) The governing board of a school district or a county board of education may, on a districtwide or countywide basis or on behalf of one or more of its schools or programs, after a public hearing on the matter, request the State Board of Education to waive all or part of any section of this code, except:

(1) The provisions of Article 1 (commencing with Section 15700) and Article 2 (commencing with Section 15780) of Chapter 6 of Part 10.

(2) The provisions of Chapter 8 (commencing with Section 16000) and Chapter 9 (commencing with Section 16400) of Part 10.

(3) The provisions of Chapter 22 (commencing with Section 17700), Chapter 23 (commencing with Section 17760), and Chapter 25 (commencing with Section 17785) of Part 10.

(4) The provisions of Part 13 (commencing with Section 22000).

(5) The following provisions of Part 23:

(A) Chapter 1 (commencing with Section 39000).

(B) Article 1 (commencing with Section 39100) to Article 6 (commencing with Section 39210), inclusive, of Chapter 2.

(C) Section 39248; Sections 39313 to 39325, inclusive; Section 39363; and Sections 39618 to 39621, inclusive.

(6) The provisions of Sections 52163, 52165, 52166, and 52178.

(7) The provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(8) The identification and assessment criteria relating to any categorical aid program, including Sections 52164.1 and 52164.6.

(9) The provisions specified pursuant to Section 52033.

(b) Any waiver of provisions related to the programs identified in Section 52851 shall be granted only pursuant to the provisions of Article 3 (commencing with Section 52850) of Chapter 12 of Part 28.

(c) The waiver of an advisory committee required by law shall be granted only pursuant to the provisions of Article 4 (commencing with Section 52870) of Chapter 12 of Part 28.

CHAPTER 1193

An act to amend Section 262 of the Penal Code, relating to crimes.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983.]

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 90 days after the day of the violation.

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 1194

An act to add Section 68073.6 to the Government Code, and to amend Sections 1206.8 and 1328d of, and to add Section 1463.8 to, the Penal Code, relating to fines and forfeitures.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 68073.6 is added to the Government Code, to read:

68073.6. (a) Notwithstanding any other provision of law, to assist a county other than Los Angeles or the City and County of San Francisco in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings containing facilities necessary to the operation of the courts, the board of supervisors of a county other than Los Angeles or the City and County of San Francisco, operative upon the adoption of a resolution stating that the provisions of this section and the

assessments provided for in paragraph (2) of subdivision (a) of Section 1206.8 of the Penal Code are necessary to the establishment of adequate courtroom facilities in the county, may establish in the county treasury a Courthouse Temporary Construction Fund.

The county treasurer shall place all assessment amounts collected on nonparking offenses pursuant to paragraph (2) of subdivision (a) of Section 1206.8 of the Penal Code in the fund.

(b) The fund moneys shall be held by the treasurer separate from any funds subject to transfer or division pursuant to Section 1463 of the Penal Code. The moneys of the Courthouse Temporary Construction Fund shall be payable only for courtroom construction as authorized in subdivision (a).

(c) Deposits to the fund in accordance with subdivision (a) shall continue through and including either (1) the 20th year after the initial calendar year in which the surcharge is collected or (2) whatever period of time is necessary to repay any borrowings made by the county to finance construction provided for in this section, whichever time shall be longer.

SEC. 2. Section 1206.8 of the Penal Code is amended to read:

1206.8. (a) In each county, provided that the board of supervisors has adopted a resolution stating that the provisions of this section and Section 68073.1, 68073.2, 68073.4, and 68073.6 of the Government Code are necessary to the establishment of adequate facilities in the county, the following surcharges and assessments shall be collected, except that a resolution adopted pursuant to Section 68073.4 of the Government Code may limit the collection to the assessments specified in paragraph (2) and a resolution adopted pursuant to Section 68073.6 of the Government Code shall limit the collection to the assessments specified in paragraph (2):

(1) With respect to each fund established, for every parking offense where a fine or forfeiture is imposed, a surcharge of one dollar and fifty cents ($1.50) shall be included in the fine or forfeiture.

The judges of the county shall increase the bail schedule amounts as appropriate to reflect the surcharge provided for by this subdivision.

In those cities, districts, or other issuing agencies which elect to receive, deposit, accept forfeitures, and otherwise process the posting of bail for parking violations pursuant to subdivision (3) of Section 1463 of the Penal Code, that city, district, or issuing agency shall observe the increased bail amounts as established by the court reflecting the surcharge provided for by this paragraph.

(2) With respect to each fund established, there shall be levied an additional amount of one dollar ($1) for every ten dollars ($10) or fraction thereof which shall be collected together with and in the same manner as the assessment established by Section 1464, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the

Vehicle Code, except offenses relating to parking or registration or offenses by pedestrians or bicyclists, or where an order is made to pay a sum to the general fund of the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code. This amount shall be deposited with the county treasurer and placed in the fund established pursuant to Section 68073.1, 68073.2, 68073.4, and 68073.6 of the Government Code.

(b) The surcharge and assessment increase imposed pursuant to this section shall continue so long as deposits to the funds are required pursuant to Section 68073.1, 68073.2, 68073.4, and 68073.6 of the Government Code.

(c) No county, city and county, city, district or other issuing agency shall be required to contribute revenues to any fund in excess of those revenues generated from the surcharges and assessments established in the resolution adopted pursuant to this section.

SEC. 3. Section 1328d, as added to the Penal Code by Chapter 541 of the Statutes of 1983, is amended to read:

1328d. Notwithstanding Section 1328, a subpoena may be delivered by mail or messenger. Service shall be effected when the witness acknowledges receipt of the subpoena to the sender, by telephone, by mail, or in person, and identifies himself or herself by reference to his or her date of birth and his or her driver's license number or Department of Motor Vehicles identification card number. The sender shall make a written notation of the identifying information obtained during any acknowledgment by telephone or in person. A subpoena issued and acknowledged pursuant to this section shall have the same force and effect as a subpoena personally served. Failure to comply with a subpoena issued and acknowledged pursuant to this section may be punished as a contempt and the subpoena may so state; provided, that a warrant of arrest or a body attachment may not be issued based upon a failure to appear after being subpoenaed pursuant to this section.

A party requesting a continuance based upon the failure of a witness to appear in court at the time and place required for his or her appearance or testimony pursuant to a subpoena, shall prove to the court that the party has complied with the provisions of this section. Such a continuance shall only be granted for a period of time which would allow personal service of the subpoena and in no event longer than that allowed by law, including the requirements of Sections 861 and 1382.

This section shall remain in effect until January 1, 1987, and on that date is repealed.

SEC. 4. Section 1463.8 is added to the Penal Code, to read:

1463.8. Notwithstanding the provisions of Section 1463, out of the moneys deposited with the county treasurer pursuant to Section 1463, there shall be credited, once a month, to any police protection district for which the county treasurer is the depositary an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail

from any person arrested or notified by a member of the police department or fire department of the district, and an amount equal to the remaining 50 percent shall be transferred into the general fund of the county.

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 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.

SEC. 6. Sections 1 and 2 of this act shall become operative only if Assembly Bill 1485 is enacted.

CHAPTER 1195

An act to amend Sections 66445 and 66499.7 of the Government Code, relating to subdivisions.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 66445 of the Government Code is amended to read:

66445. The parcel map shall be prepared by or under the direction of a registered civil engineer or licensed land surveyor, shall show the location of streets and property lines bounding the property and shall conform to all of the following provisions:

(a) It shall be legibly drawn, printed or reproduced by a process guaranteeing a permanent record in black on tracing cloth or polyester base film. Certificates may be legibly stamped or printed upon the map with opaque ink. If ink is used on polyester base film, the ink surface shall be coated with a suitable substance to assure permanent legibility.

(b) The size of each sheet shall be 18 by 26 inches. A marginal line shall be drawn completely around each sheet, leaving an entirely blank margin of one inch. The scale of the map shall be large enough to show all details clearly and enough sheets shall be used to accomplish this end. The particular number of the sheet and the total number of sheets comprising the map shall be stated on each of the sheets, and its relation to each adjoining sheet shall be clearly shown.

(c) Each parcel shall be numbered or otherwise designated.

(d) The exterior boundary of the land included within the subdivision shall be indicated by distinctive symbols and clearly so designated.

(e) The map shall show the location of each parcel and its relation to surrounding surveys. The location of a designated remainder

parcel shall be indicated but need not be indicated as a matter of survey but only by deed reference to the existing record boundaries of such remainder if such remainder has a gross area of five acres or more.

(f) Subject to the provisions of Section 66436, a certificate, signed and acknowledged by all parties having any record title interest in the real property subdivided, consenting to the preparation and recordation of the parcel map is required, except that less inclusive requirements may be provided by local ordinance.

With respect to a division of land into four or fewer parcels, where dedications or offers of dedications are not required, the certificate shall be signed and acknowledged by the subdivider only. If the subdivider does not have a record title ownership interest in the property to be divided, the local agency may require that the subdivider provide the local agency with satisfactory evidence that the persons with record title ownership have consented to the proposed division. For purposes of this paragraph, "record title ownership" shall mean fee title of record unless a leasehold interest is to be divided, in which case "record title ownership" shall mean ownership of record of such leasehold interest; "record title ownership" does not include ownership of mineral rights or other subsurface interests which have been severed from ownership of the surface.

(g) It shall also satisfy any additional map requirements of local ordinances consistent with this division.

Notwithstanding any other provision of this article, local agencies may require that those certificates and acknowledgments required pursuant to this subdivision and subdivision (f) be made by separate instrument to be recorded concurrently with the parcel map being filed for record.

(h) Whenever a certificate or acknowledgment is made by separate instrument, there shall appear on the final map a reference to the separately recorded document. This reference shall be completed by the county recorder pursuant to Section 66468.1.

(i) If a field survey was performed, the parcel map shall contain a certificate by the engineer or surveyor responsible for the preparation of the map that states that all monuments are of the character and occupy the positions indicated, or that they will be set in such positions on or before a specified date, and that the monuments are, or will be, sufficient to enable the survey to be retraced.

SEC. 2. Section 66499.7 of the Government Code is amended to read:

66499.7. The security furnished by the subdivider shall be released in whole or in part in the following manner:

(a) Security given for faithful performance of any act or agreement shall be released upon the performance of the act or final completion and acceptance of the required work, or the legislative body may provide for the partial release of the security upon the

partial performance of the act or the acceptance of the work as it progresses, under rules established by the legislative body.

(b) Security securing the payment to the contractor, his or her subcontractors and to persons furnishing labor, materials or equipment shall, after passage of the time within which claims of lien are required to be recorded pursuant to Article 3 (commencing with Section 3114) of Chapter 2 of Title 15 of Part 4 of Division 3 of the Civil Code and after acceptance of the work, be reduced to an amount equal to the total claimed by all claimants for whom claims of lien have been recorded and notice thereof given in writing to the legislative body, and if no such claims have been recorded, the security shall be released in full.

Such release shall not apply to any required guarantee and warranty period nor to the amount of the security deemed necessary by the local agency for such guarantee and warranty period nor to costs and reasonable expenses and fees, including reasonable attorneys' fees.

The legislative body may authorize any of its public officers or employees to authorize release or reduction of the security in accordance with the conditions hereinabove set forth and in accordance with such rules as it may prescribe.

CHAPTER 1196

An act to repeal and add Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code, and to amend Sections 12031 and 12033 of the Penal Code, relating to the Private Investigator Act.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code is repealed.

SEC. 2. Chapter 11.5 (commencing with Section 7512) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 11.5. PRIVATE DETECTIVES

Article 1. General

7512. This chapter may be cited as the Private Investigator Act.

7512.1. As used in this chapter, "director" means the Director of Consumer Affairs, unless the context indicates otherwise.

7512.2. The director shall administer and enforce the provisions of this chapter.

7512.3. As used in this chapter, "person" includes any individual, firm, company, association, organization, partnership, and corporation.

7512.4. As used in this chapter, "bureau" means the Bureau of Collection and Investigative Services.

7512.5. As used in this chapter, "chief" means the Chief of the Bureau of Collection and Investigative Services.

7512.6. 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.

7512.7. As used in this chapter, "manager" means the individual under whose direction, control, charge, or management the business of a licensee is operated.

7512.8. A person registered under the provisions of subdivision (f) of Section 7515, Article 3.2 (commencing with Section 7544), Article 3.3 (commencing with Section 7550) and Article 4 (commencing with Section 7552) shall be deemed to be a licensee for the purposes of this chapter.

7513. Every power and duty granted to or imposed upon the director may be exercised by any other officer or employee of the Department of Consumer Affairs authorized by the director, but the director shall have the supervision of and the responsibility for all powers and duties exercised by such officers and employees.

7513.5. The director may, in accordance with the State Civil Service Act and subject to the provisions of Section 159.5, appoint and fix the compensation of such inspectors, investigators, and other personnel as may be necessary for the enforcement of this chapter.

7514. Nothing in this chapter shall be construed as entitling any person to practice law in this state unless he or she is an active member of the State Bar of California.

Article 2. Administration

7515. 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 or she is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and

to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson, or employed by an 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.

(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 patrol person 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 as a private patrol operator must meet as a condition of handling guard dogs, which regulations shall be in addition to any regulations relating to protection dogs.

7516. 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 after 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 be actively engaged in business as a licensed private patrol operator, two members shall be actively engaged 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.

7516.1. 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, a chairperson, a vice chairperson, and a secretary, each of whom shall serve for a term of one year, 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.

7516.2. 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.

7516.3. The advisory board shall engage in the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, baton training instructors, alarm company operators. and alarm agents:

(a) Inquire into the needs of the private patrol and alarm company businesses, the functions and policies of the bureau, and shall make recommendations with respect thereto as may be deemed important and necessary for the public welfare, and the welfare and progress of the private patrol and alarm company businesses.

(b) Consider and make appropriate recommendations as to changes in, additions to, or deletions of, rules and regulations which may be deemed important and necessary to the private patrol and alarm company businesses.

(c) Assist the chief in the collection of information and data as the chief may deem necessary to the proper administration of this chapter.

(d) Coordinate and participate in the formulation 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 licenses, 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 formulation and validation of the "Powers to Arrest Manual," the "Firearm Training Manual," and the

"Baton Training Manual" and update those manuals.

7517. The two licensed private patrol operators and five public members of the advisory board shall appoint two private security disciplinary review committees, and may remove any member of a disciplinary review committee for misconduct, incompetency, or neglect of duty. One committee shall meet in the southern portion of the state and the other committee shall meet in the northern portion of the state.

Each disciplinary review committee shall consist of five members. Of the five members, one member shall be actively engaged in the business of a licensed private patrol operator, one member shall be actively engaged in the business of a firearm training facility, one member shall be actively engaged in the business of a registered security guard, and two members shall be public members. None of the public members shall be licensees or registrants or engaged in any business or profession in which any part of the fees, compensation, or revenue thereof, is derived from any licensee.

Each 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.

7517.1. Each disciplinary review committee shall perform the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, and baton training instructors:

(a) Affirm, rescind, or modify all appeals which concern administrative fines assessed by the director.

(b) Affirm, rescind, or modify all appeals which concern denials, revocations, or suspensions of a license, certificate, or registration except denials, revocations, 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.

7517.2. A private patrol operator, qualified manager of a private patrol operator, security guard, firearm qualification cardholder, firearm training facility, firearm training instructor, baton training facility, or baton training instructor may request a review by a disciplinary review committee to contest the assessment of an administrative fine or to appeal a denial, revocation, or suspension of a license, certificate, or registration unless the denial, revocation, 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.

A request for a review shall be by written notice to the chief within 20 days of the issuance of the citation and assessment, denial, revocation, or suspension.

Following a review by a 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 a disciplinary review committee. he or she 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. A request for a hearing following a decision by a disciplinary review committee shall be by written notice to the chief within 30 days following notice of the committee's decision.

If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.

7518. Except in cases where licensees are required to comply with the provisions of Section 7517.2, where a hearing is held under this chapter to determine whether an application for a license should be granted or to determine the qualifications of a licensee's manager, 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 director shall have all of the powers granted therein.

Article 3. Regulation, Licensing and Registration

7520. No person shall engage in a business regulated by this chapter; act or assume to act as, or represent himself or herself to be, a licensee unless he or she is licensed under this chapter; and no person shall falsely represent that he or she is employed by a licensee.

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 those 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 or she 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 emloyment 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 agrees 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.

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of the employer only and where there exists an employer-employee relationship, provided that the person at no time carries or uses any deadly weapon in the performance of his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include 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 and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such 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, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age or more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his or her duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) 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.

(j) Any savings and loan association subject to the jurisdiction of the Savings and Loan Commissioner or the Federal Home Loan Bank Board.

(k) A person engaged solely in the business of securing information about persons or property from public records.

(*l*) A peace officer of this state or a political subdivision thereof while such peace officer is employed by a private employer to engage in off-duty employment in accordance with the provisions of Section 1126 of the Government Code. However, nothing herein shall exempt such peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

(m) A retired peace officer of the state or political subdivision thereof when such retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is in a uniform of a public law enforcement agency, has registered with the bureau on a form

approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7545. Such officer may not carry a loaded or concealed firearm unless he or she is exempted under the provisions of subdivision (a) of Section 12027 of the Penal Code or paragraph (1) of subdivision (b) of Section 12031 of the Penal Code or has met the requirements set forth in Section 12033 of the Penal Code. However, nothing herein shall exempt such retired peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator

7523. (a) Unless specifically exempted by Section 7522, no person shall engage in the business of private investigator, private patrol operator, or protection dog operator, as defined in Section 7521, unless that person has applied for and received a license to engage in that business pursuant to this chapter.

(b) Any person who knowingly engages in the business of a private investigator, private patrol operator, or protection dog operator without a license issued pursuant to this chapter is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

(c) The chief shall gather evidence of violations of this chapter and of any rule or regulation established pursuant to this chapter by persons engaged in the business of private investigator, private patrol operator, or protection dog operator who fails to obtain licenses and shall gather evidence of violations and furnish that evidence to prosecuting officers of any county, city, or city and county for the purpose of prosecuting all violations occurring within their jurisdiction.

(d) The prosecuting officer of any county, city, or city and county shall prosecute all violations of this chapter occurring within his or her jurisdiction.

7524. (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 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 7515.

(c) 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 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 and no application may 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.

7525. An application for a license under this chapter shall be on a form prescribed by the director and accompanied by the application fee provided by this chapter.

7525.1. An application shall be verified and shall include:

(a) The full name and business address of the applicant.

(b) The name under which the applicant intends to do business.

(c) A statement as to the general nature of the business in which the applicant intends to engage.

(d) A statement as to the classification or classifications under which the applicant desires to be qualified.

(e) If the applicant is a person other than an individual, the full name and residence address of each of its partners, officers, and directors, and its manager.

(f) Two recent photographs of the applicant, of a type prescribed by the director, and two classifiable sets of his or her fingerprints.

(g) A verified statement of his or her experience qualifications.

(h) Such other information, evidence, statements, or documents as may be required by the director.

7526. Before an application for a license is granted, the applicant or his or her manager, shall meet all of the following:

(a) Be at least 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of a license under Section 480.

(c) Comply with the requirements specified in this chapter for the particular license for which an application is made.

(d) Comply with such other qualifications as the director may fix by rule.

7527. The director may require an applicant or his or her manager, to demonstrate his or her qualifications by a written or oral examination, or a combination of both.

7527.5. Payment of the application fee prescribed by this chapter entitles an applicant or his or her manager to one examination without further charge. If the person fails to pass the examination, he or she shall not be eligible for any subsequent examination except upon payment of the reexamination fee prescribed by this chapter for each such subsequent examination.

7528. The form and content of the license shall be determined by the director in accordance with Section 164.

7528.5. The license shall at all times be posted in a conspicuous place in the principal place of business of the licensee.

7529. Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the director shall be issued without charge to each licensee, if an individual or if the licensee is a person other than an individual, to its manager and to each of its officers and partners, which card shall be evidence that the licensee is duly licensed pursuant to this chapter. When any person to whom a card is issued terminates his or her position, office or association with the licensee, the card shall be surrendered to the licensee and within five days shall be mailed or delivered by the licensee to the bureau for cancellation.

7530. A license issued under this chapter is not assignable.

7531. A licensee shall at all times be legally responsible for the good conduct in the business of each of his or her employees or agents, including his or her manager.

7531.5. Each licensee shall maintain a record containing such information relative to his or her employees as may be prescribed by the director.

7532. No licensee shall conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the bureau to do so.

The bureau shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency or of that used by another licensee that the public may be confused or misled thereby.

The authorization shall require, as a condition precedent to the use

of any fictitious name, that the licensee comply with Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.

A licensee desiring to conduct his or her business under more than one fictitious business name shall obtain the authorization of the bureau in the manner prescribed in this section for the use of each such name.

The licensee shall pay a fee of ten dollars ($10) for each authorization to use an additional fictitious business name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name the licensee shall pay a fee of ten dollars ($10) for such authorization.

7533. Each licensee shall file with the bureau the complete address of his or her principal place of business including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying such principal place of business.

7533.5. A licensee shall, within 30 days after such change, notify the bureau of any change of his or her address and of any change in its officers or partners. The principal place of business may be at a home or at a business address but it shall be the place at which the licensee maintains a permanent office.

Applications, on forms prescribed by the director, shall be submitted by all new officers or partners. The director may suspend or revoke a license issued under this chapter if he or she determines that at the time the person became an officer or partner of a licensee, any of the facts stated in Section 7538 or 7538.5 existed as to such person.

7534. Every advertisement by a licensee soliciting or advertising business shall contain his or her name, address and license number as they appear in the records of the bureau. The director may adopt regulations defining the term "advertisement" as used in this section.

7535. A licensee shall not advertise or conduct business from any location other than that shown on the records of the bureau as his or her principal place of business unless he or she has received a branch office certificate for such location after compliance with the provisions of this chapter and such additional requirements necessary for the protection of the public as the director may by regulation prescribe. A licensee shall notify the bureau in writing within 10 days after closing or changing the location of a branch office.

7536. (a) The business of each licensee shall be operated under the active direction, control, charge, or management, in this state, of the licensee, if he or she is qualified, or the person who is qualified to act as the licensee's manager, if the licensee is not qualified.

(b) No person shall act as a manager of a licensee until he or she has complied with each of the following:

(1) Demonstrated his or her qualifications by a written or oral examination, or a combination of both, if required by the director.

(2) Made a satisfactory showing to the director that he or she has the qualifications prescribed in Section 7526 and that none of the facts stated in Section 7538 or 7538.5 exist as to him or her.

7537. (a) Except as provided in subdivision (b), where the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the licensee for any reason whatsoever, the business may be carried on for such temporary period and under such terms and conditions as the director shall provide by regulation.

(b) If the manager, who has qualified as provided in Section 7536, ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the bureau in writing 30 days from such cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the director pending the qualifications of another manager as provided in this chapter. If the licensee fails to notify the bureau within the 30-day period, his or her license shall be subject to suspension or revocation and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, if any be due, and the qualification of a manager as provided in this chapter.

7538. After a hearing the director may deny a license unless the applicant makes a showing satisfactory to the director that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers have not:

(a) Committed any act, which, if committed by a licensee, would be a ground for the suspension or revocation of a license under this chapter.

(b) Committed any act constituting dishonesty or fraud.

(c) Committed any act or crime constituting grounds for denial of licensure under Section 480, including illegally using, carrying, or possessing a deadly weapon.

(d) Been refused a license under this chapter or had a license revoked.

(e) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(f) While unlicensed committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

(g) Knowingly made any false statement in his or her application.

7538.5. The director may refuse to issue any license provided for in this chapter to any person:

(a) Who has had any license revoked, or whose license is under suspension, or has failed to renew his or her license while it was under suspension.

(b) If any member of any partnership, or any officer or director of any corporation, or any officer or person acting in a managerial

capacity of any firm or association has had any license issued to him or her revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension.

(c) If any member of the partnership, or any officer or director of the corporation, or any officer or person acting in a managerial capacity of the firm or association, was either a member of any partnership, or an officer or director of any corporation, or an officer or person acting in a managerial capacity of any firm or association, whose license has been revoked, or whose license is under suspension, or who failed to renew a license while it was under suspension, and while acting as such member, officer, director, or person acting in a managerial capacity participated in any of the prohibited acts for which any such license was revoked or suspended.

7539. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or his or her representative, any information he or she may acquire as to any criminal offense, but he or she shall not divulge to any other person, except as he or she may be required by law to do so, any information acquired by him or her except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager or employee of a licensee shall knowingly make any false report to his or her employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee, or officer, director, partner, manager, or employee of private investigator licensees, shall use a badge in connection with the official activities of the licensee's business.

(e) No licensee, or officer, director, partner, manager, or employee of a licensee, shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) No licensee, or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof.

(g) No private patrol licensee, or officer, director, partner, manager, or employee of a private patrol licensee shall use a badge, except while engaged in guard or patrol work and while wearing a uniform.

(h) 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 whatever conduct business for which a license is required under this chapter. All business of the

licensee shall be conducted in the name of and under the control of the licensee.

(i) No licensee, officer, director, partner, manager, or employee of a private investigator shall knowingly and directly solicit employment from any injured person or from any other person to obtain authorization on behalf of the injured person, as an investigator to investigate the accident or act which resulted in injury or death to such person or damage to the property of such person. Nothing in this subdivision shall prohibit the soliciting of employment from such injured person's attorney. This subdivision shall not apply to any business agent or attorney employed by a labor organization.

(j) No licensee, officer, director, partner, or manager of a private investigator shall pay or compensate any of his or her employees or agents on the basis of a bonus, bounty, or quota system whereby a premium is placed on the number of employer or client rule violations or infractions purportedly discovered as a result of any investigation made by a licensee.

7539.5. Any badge or cap insignia worn by a person who is a licensee, officer, director, partner, manager, or employee of a licensee, shall be of a design approved by the director, and shall bear on its face a distinctive word indicating the name of the licensee and an employee number by which such person may be identified by the licensee.

The provisions of this section shall not be construed to authorize persons to wear badges who are prohibited by Section 7539 from wearing badges.

Article 3.1. Private Investigators

7540. For purposes of this article, "licensee" means a licensed private investigator.

7541. An applicant, or his or her manager, for a license as a private investigator shall have had at least two years' experience in investigation work or the equivalent thereof as determined by the director.

An applicant shall substantiate the claimed years of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from other than employers substantiating employment for consideration by the chief.

7542. Every licensee and qualified manager who in the course of his or her employment or business carries a deadly weapon shall complete a course of training in the exercise of the powers to arrest as specified in Section 7545.2 and a course of training in the carrying and use of firearms as specified in Article 3.2 (commencing with

Section 7544). No licensee or qualified manager shall carry or use a firearm unless he or she has met the requirements of Sections 7547.1, 7547.3, and 7547.4 and has in his or her possession a valid firearms qualification card as provided in Section 7547.5. A licensee or qualified manager who possesses a valid firearms qualification card shall comply with and be subject to the provisions of Sections 7547.6, 7547.7, and 7548.

7542.1. Every licensee and any person employed and compensated by a licensee who in the course of such employment or business carries tear gas or any other nonlethal chemical agent shall complete the required course pursuant to Section 12403.5 of the Penal Code.

Article 3.2. Private Patrol Operators

7544. For purposes of this article, "licensee" means a licensed private patrol operator.

7544.1. An applicant, or his or her manager, for a license as a private patrol operator shall have had at least one year of experience as a patrolman, guard or watchman, or the equivalent thereof as determined by the director. An applicant shall substantiate the claimed year of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from other than employers substantiating employment for consideration by the chief.

7544.5. No person licensed as a private patrol operator shall do any of the following:

(a) Fail to properly 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 while on duty. Within seven days after a licensee or his or her employees discover that a deadly weapon which has been recorded as being in his or her possession has been misplaced, lost, or stolen, or in any other way missing, the licensee or his or her manager shall mail or deliver to the chief and to any local law enforcement agency who has jurisdiction, a written report concerning 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.

(b) Fail to properly maintain an accurate and current record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated.

(c) Fail to properly maintain an accurate and current record of proof of completion by each employee of the licensee of the course of training in the exercise of the power to arrest as required by

Section 7545.

(d) Fail to certify an employee's completion of the course of training in the exercise of the power to arrest prior to placing such employee at a duty station.

(e) Fail to either certify proof of current and valid registration for each employee who is subject to registration or fail to require an employee to complete an application for registration within three working days after employing an individual who does not possess a current and valid registration from the bureau.

(f) Permit any employee to carry a firearm or other deadly weapon without first ascertaining that such employee is proficient in the use of each weapon to be carried. With respect to firearms, evidence of proficiency shall include a certificate from a firearm training facility approved by the director certifying that such employee is proficient in the use of that specified caliber of firearm and a current and valid firearm qualification permit issued by the department. With respect to other deadly weapons, evidence of proficiency shall include a certificate from a training facility approved by the director certifying that such employee is proficient in the use of that particular deadly weapon.

(g) Fail to deliver to the director a written report describing fully the circumstances surrounding the discharge of any firearm by a licensee or any officer, partner, or employee of a licensee while acting within the course and scope of his or her employment within seven days after the incident. Such report shall include, but not be limited to, a description of any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted.

(h) Fail to notify the bureau in writing and within 30 days that a manager previously qualified pursuant to this chapter is no longer connected with the licensee.

7544.6. No uniformed employee of a private patrol operator shall do any of the following:

(a) Fail to carry on his or her person, while on duty, a valid and current security guard registration card or a copy of a valid application for such a registration card.

(b) Fail to carry on his or her person a valid and current firearms permit when carrying a firearm on duty.

(c) Carry or use a firearm unless he or she possesses a valid and current firearms permit from the department and evidence of proficiency in the use of the weapon carried. Proficiency may be evidenced by a certificate from a firearm training facility approved by the director certifying that such person is proficient in the use of that specified caliber of firearm.

7545. (a) Every licensee and any person employed and compensated by a licensee, 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.

7545.1. Every person entering the employ of a licensee to perform the functions of a security guard or a security patrolperson shall complete a course in the exercise of the power to arrest prior to being assigned to a duty location.

7545.2. (a) 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 shall cover the following topics:

(1) Responsibilities and ethics in citizen arrest.

(2) Relationship with the public police in arrest.

(3) Limitations on security guard power to arrest.

(4) Restrictions on searches and seizures.

(5) Criminal and civil liabilities.

(A) Personal liability.

(B) Employer liability.

(b) The department shall make available a guidebook 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 to be taken by security personnel.

7545.3. No employee of a licensee who performs the function of a security guard or security patrolperson shall be issued a registration 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.

7546. Within three working days after employment, any employee who performs the function of a security guard or security patrolperson 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. "Within three working days after employment" means within 72

hours from the time an employee is first compensated by a licensee for security guard or security patrolperson services. No application is required to be submitted if the employee terminates within the three working days. The licensee shall maintain supplies of applications and fingerprint cards which shall be provided by the bureau upon request.

7546.1. 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.

7546.2. The application shall be verified and shall include all of the following:

(a) The full name, residence address, telephone number, date of birth, and social security number of the employee.

(b) The name, address, telephone number, and license number of the employer and the date the employment commenced.

(c) The signature of the employee and the employer's certification that the employee has received a course in the exercise of the power to arrest.

(d) A statement as to whether the employee has been convicted of a misdemeanor, excluding minor traffic violations.

(e) A statement as to whether the employee has been convicted of a felony.

7546.3. An employee of a licensee may be assigned to work with a temporary registration card which indicates completion of the course in the exercise of the power to arrest until the bureau issues a registration card or denies the application for registration.

7546.4. No employee of a licensee shall carry or use a firearm unless the employee has in his or her possession a valid guard registration card and a valid firearm qualification card issued pursuant to this chapter.

7546.5. (a) The bureau, upon receipt of a criminal offense record or record of a subsequent arrest from the Department of Justice, shall make an immediate determination of fitness of (1) applicants for registration under this article, or (2) applicants for firearm qualification cards, when information contained in the records of the Department of Justice makes such a determination possible. Applications of those determined to be unfit shall be immediately denied.

(b) The bureau shall keep a current and accurate record of the individuals who have applied for and been denied registration under this article or a firearms qualification card. A list consisting of individual names and other pertinent indentifying information may be made of those individuals who have been denied registration. The list may be updated bimonthly and made available to interested licensees and law enforcement agencies.

7546.6. (a) If the chief determines that an applicant's criminal history contains open arrest information, the chief shall issue a notice to the applicant allowing 45 days for the applicant to provide documentation concerning the disposition of the arrest or arrests.

(b) The notice shall be sent to the applicant at his or her last known residential address and shall provide sufficient information to assist the applicant in complying with the chief's request. 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, or suspend the registration.

7546.7. If the chief determines that continued employment of an applicant or registrant, in his or her current capacity, may present an undue hazard to the 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.

7546.8. (a) The chief may refuse to register any employee, or may suspend or revoke a previously issued registration, if the individual has committed any action which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license issued under this chapter.

(b) The denial of an application for registration under this article 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 a disciplinary review committee to contest the denial, the review shall be requested of the director within 20 days following notice of the issuance of the denial.

7546.9. Upon approval of an application for registration, the chief shall cause to be issued to the applicant at his or her last known residential address a registration card in a form approved by the director. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a two dollar ($2) certification fee, whereupon the bureau shall issue a certified replacement of the card

7546.10. A qualified manager who complies with Section 7536 is not required to register under this article.

7546.11. A licensee shall at all times be responsible for ascertaining that those of his or her employees which are subject to registration are currently registered or have made proper application for registration as provided in this article. A licensee may not have in his or her employment a person whose registration has expired or been revoked, denied, suspended, or canceled.

7546.12. (a) A registration shall be effective for two years and 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 continue 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, for renewal of his or her registration.

(b) The licensee shall provide to any employee information

regarding procedures for renewal or registration.

(c) 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.

(d) 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.

7547. (a) Every licensee, qualified manager of a licensee, or security guard 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.

(b) A licensee shall not permit an employee to carry or use a loaded or unloaded firearm, whether or not it is serviceable or operative, unless the employee possesses a valid and current firearms qualification card issued by the bureau.

7547.1. The bureau shall issue a firearms qualification card when all of the following conditions are satisfied:

(a) The applicant is a licensee, a qualified manager of a licensee, or a registered uniformed security guard.

(b) A certified firearms training instructor has certified that the applicant has successfully completed a written examination prepared by the bureau and training course in the carrying and use of firearms approved by the bureau.

(c) 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.

(d) 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 that the carrying and use of a firearm by the applicant is not in violation of Section 12021 of the Penal Code.

7547.3. If an applicant fails to complete his or her application within one year after it has been filed, the application shall be considered to be abandoned. An application submitted subsequent to the abandonment of the former application shall be treated as a new application.

7547.4. 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 a disciplinary review committee to contest the denial, the review shall be requested of the director within 20 days following notice of the issuance of the denial. However, no review shall be granted to

an individual who is prohibited from carrying a firearm pursuant to Section 12021 of the Penal Code.

7547.5. The firearms qualification card, if issued, 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.

7547.6. 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.

7547.7. (a) 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 card's 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.

(b) The bureau shall not renew a firearms qualification card unless all of the following conditions are satisfied:

(1) 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.

(2) The applicant has requalified on the range at a training facility approved by the bureau.

(3) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

7547.8. Any licensee, qualified manager, or a registered uniformed security guard who wishes to carry a baton in the performance of his or her duties, shall qualify to carry the weapon pursuant to Article 4 (commencing with Section 7552).

7547.9. A licensee shall not permit any employee to carry a baton prior to ascertaining that the employee is proficient in the use of the weapon. Evidence of proficiency shall include a certificate from a baton training facility approved by the bureau which certifies that the employee is proficient in the use of the baton.

7547.10. Every licensee, qualified manager, or a registered uniformed security guard, who in the course of his or her employment carries tear gas or any other nonlethal chemical agent, shall complete the required course pursuant to Section 12403.5 of the Penal Code.

7547.11. 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 training facility approved by the Department of Justice or by the Commission on Peace Officers Standards and Training that the

person is proficient in the use of tear gas or any other nonlethal chemical agent.

7548. The director may assess fines as enumerated in Article 6 (commencing with Section 7561). 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. In addition to other prohibited acts under this chapter:

(a) No licensee, qualified manager, or registered uniformed security guard shall carry any inoperable, replica, or other simulated firearm.

(b) No licensee, qualified manager, or registered uniformed security guard shall use a firearm in violation of the law or in knowing violation of the standards for the carrying and usage of firearms as taught in the course of training in the carrying and use of firearms. Such unlawful or prohibited uses of firearms shall include, but not be limited to, the following:

(1) Illegally using, carrying, or possessing a dangerous weapon.

(2) Brandishing a weapon.

(3) Drawing a weapon without proper cause.

(4) Provoking a shooting incident without cause.

(5) Carrying or using a firearm while on duty while under the influence of alcohol or dangerous drugs.

(6) Carrying or using a firearm of a caliber for which a firearms permit has not been issued by the bureau.

(c) No licensee, qualified manager, or registered uniformed security guard shall carry or use a baton in the performance of his or her duties, unless he or she has in his or her possession a valid baton certificate issued pursuant to Section 7553.5.

(d) No licensee, qualified manager, or registered uniformed security guard 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 any other nonlethal chemical agent.

(e) No licensee, qualified manager, or registered uniformed security guard 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.

7548.5. A city, county, or city and county may regulate the uniforms and insignias worn by uniformed employees of a private patrol operator and vehicles used by a private patrol operator to make the uniforms and vehicles clearly distinguishable from the uniforms worn by, and the vehicles used by, local regular law enforcement officers.

7549. No private patrol operator who employs a security guard who carries a firearm as part of his or her duties shall engage in any of the practices for which he or she is required to be licensed by this chapter, unless he or she maintains an insurance policy as defined in Section 7549.1.

7549.1. "Insurance Policy," as used in this article, means a contract of liability insurance issued by an insurance company authorized to transact business in this state which provides minimum limits of insurance of five hundred thousand dollars ($500,000) for any one loss due to bodily injury or death and five hundred thousand dollars ($500,000) for any one loss due to injury or destruction of property.

7549.2. Proof that a licensee maintains an insurance policy as required by this article shall be provided by the licensee to the bureau upon demand.

7549.3. The failure of a private patrol operator to maintain an insurance policy as required by this article shall constitute grounds for the suspension of the private patrol operator's license.

Article 3.3. Protection Dog Operators

7550. As used in this article, the term "licensee" means a protection dog operator licensed under this chapter.

7550.1. An applicant for a license as a protection dog operator, owner or manager shall have had previous experience in training a protection dog for others, and shall take and pass an examination administered by the bureau.

7550.2. No person licensed as a protection dog operator shall do any of the following:

(a) Fail to maintain a record of the name, address, and commencing and termination date of employment, of each employee.

(b) Fail to certify proof of current and valid registration of all employees subject to registration.

(c) Sell, let, or train any protection dog that has not been immunized against rabies. Proof of immunization shall consist of a valid certificate of rabies vaccination and shall be provided to any person who in any way obtains a protection dog from a protection dog operator.

(d) Fail to have a current and valid certificate of rabies vaccination for every protection dog owned by the operator.

(e) Fail to register each protection dog which he or she handles or trains with the local animal control officer, the local law enforcement agency and with the state, city, county or district fire department which has the responsibility for the prevention and suppression of fires in the area in which the protection dog operator does business.

(f) Fail to notify such appropriate local law enforcement agency and such appropriate fire department by mail not more than 15 days before a protection dog is sent on an assignment of the location and duration of such assignment.

(g) Print, or cause to be printed, any advertisement or brochure without including his or her protection dog operator's license number in the advertisement.

(h) Train a protection dog with the intent that the dog shall be engaged in an exhibition of fighting or knowingly sell or let a protection dog which is intended to be engaged in an exhibition of fighting.

(i) Fail to provide a protection dog confined in an enclosed area with an adequate exercise area. If the protection dog is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the dog from becoming entangled or injured and permit the dog's access to adequate shelter, food, and water.

7550.3. (a) Every person employed by a licensee who engages in the providing, handling, training, and selling of protection dogs shall be registered with the bureau in the manner prescribed by this article.

(b) Every person entering the employ of a licensee shall file with the bureau an application for registration within three days after the commencement of such employment. "Within three working days after employment" means 72 hours from the time an employee is first compensated by a licensee for services. No application is required to be submitted if the employee terminates employment within the three working days.

7550.31. The application for registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee prescribed in this chapter.

7550.32. The application shall be verified and shall include all of the following:

(a) The full name, residence address, telephone number, date of birth, and social security number of the employee.

(b) The name, address, telephone number, and license number of the employer and the date employment commenced.

(c) The signature of the employee.

(d) A statement as to whether the employee has been convicted of a misdemeanor, excluding minor traffic violations.

(e) A statement as to whether the employee has been convicted of a felony.

7550.4. Managers who comply with other provisions of this chapter are not required to register under this article.

7550.5. Upon approval of an application for registration, the chief shall cause to be issued to the applicant at his or her last known residential address a registration card in a form approved by the director. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a two dollar ($2) certification fee, whereupon the bureau shall issue a certified replacement of the card.

7550.6. The director may refuse to register any employee, or may suspend or revoke a previously issued registration, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or

revocation of a license under this chapter.

7550.7. (a) A registration shall expire on the 31st day of December of the second calendar year following the date of issuance, and every two years thereafter. At least 60 days prior to the expiration of registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, with the renewal fee as set forth in this chapter, for renewal of his or her registration.

(b) An expired registration may not be renewed.

(c) If the renewed registration card has not been delivered to the registrant prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

7550.8. No person licensed as a protection dog operator or registered as an employee of a protection dog operator shall do any of the following:

(a) Fail to transport a protection dog anywhere in a secure, humane manner that will reasonably prevent its possible escape.

(b) Fail to visit a protection dog which is on actual duty at least once every 12 hours to ensure that the dog's physical condition, its shelter, and its food and water supply are adequate; if inadequate, the protection dog operator or registered employees shall do whatever may be necessary to correct or remedy the situation.

(c) Fail to accompany and remain with a protection dog which is assigned to duty in any portion of any business establishment which is open to the general public for the entire length of time that the protection dog is on duty.

(d) Knowingly overwork, or torture, torment, neglect, abandon, deprive of necessary sustenance or care, drink or shelter, beat, mutilate, or unjustifiably kill any protection dog. The words "torment" and "torture" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

7550.9. Each protection dog shall at all times wear an identification tag. The identification tag shall be provided by the protection dog operator who furnishes the dog for hire. The identification tag shall contain, but not be limited to, the name, address, and telephone number of the protection dog operator. The telephone shall be monitored 24 hours a day so that calls of the public may be received and answered.

The identification tag required by this section shall be in addition to any tag required or issued by any agency of government to show that a dog has been immunized or inoculated against disease.

7550.10. A protection dog operator shall furnish a statement containing the following to any person who in any way obtains a protection dog from the licensee: "Protection dog operators are regulated by the Bureau of Collection and Investigative Services, 1920 20th Street, Sacramento, CA 95814."

Article 4. Firearms and Baton Training Facilities

7552. The course of training in the carrying and usage of firearms, the satisfactory completion of which shall be required of applicants who wish to obtain a firearms qualification card, shall be in the format prescribed by the Department of Consumer Affairs as delineated in the bureau's "Firearms Training Manual." The course of training contained in the manual shall include, but not be limited to, the following:

(a) Moral and legal aspects of firearms usage.

(b) Firearms nomenclature and maintenance.

(c) Weapon handling and shooting fundamentals.

(d) Emergency procedures.

(e) Prequalification range training, including the firing of practice rounds.

(f) Qualification course of fire.

(g) Examination which has been provided by the bureau of the subject matter taught.

7552.1. For purposes of this article, "firearms course" means the firearms training course as outlined in Section 7552.

7552.2. The firearms requalification course shall consist of the successful completion of a firearms requalification course approved by the bureau.

7552.3. (a) Any institution, firm, or individual wishing the approval of the bureau to offer the firearms course shall complete an application for certification as a firearms training facility. The application shall be in a form prescribed by the chief and shall include, but not be limited to, the following information:

(1) The name, business address, and telephone number of the institution, firm, or individual.

(2) A detailed description of the places, days, and times the course will be offered.

(3) An estimate of the minimum and maximum class size.

(4) The location and description of the range facilities.

(5) The name or names of the firearms training instructors who will teach the course who have been certified by the bureau, and their certificate numbers, if available.

(b) The application shall be accompanied by the fee prescribed in this chapter.

7552.4. Upon approval by the bureau of a firearms training facility, the chief shall issue to the facility a "Firearms Training Facility Certificate." The certificate is valid only when the firearms training facility has in its employ a firearms training instructor who has been certified by the bureau. The certificate shall be posted in a conspicuous place at the facility.

7552.5. (a) Any individual who desires certification by the bureau to instruct a firearms course shall complete an application for a firearms training instructor certificate. An application shall be made on a form provided by the bureau.

(b) An applicant for a firearms training instructor certificate shall meet the following minimum qualifications:

(1) Possess any of the following:

(A) An associate of arts degree in the administration of justice or the equivalent thereof.

(B) One year of teaching or training experience in the military, law enforcement, or a public or vocational school.

(C) A teaching credential issued by the State of California.

(2) Possess any of the following certificates, or the equivalent thereof to be determined by the chief:

(A) A firearms instructor training certificate issued by the Commission on Peace Officer Standards and Training.

(B) A police firearms instructor training certificate issued by the National Rifle Association.

(C) A firearms training certificate issued by a federal, state, or local law enforcement agency.

(c) The application shall be accompanied by the fee prescribed in this chapter.

(d) Upon approval by the bureau of an applicant for certification as a firearms training instructor, the chief shall issue to the applicant a "Firearms Training Instructor Certificate." The certificate shall be posted at the training site.

7552.6. (a) All firearms course material provided to the certificate holder in the "Firearms Training Manual" issued by the bureau shall be covered in each class session. Any course textbook or manual developed to be used by a firearm training facility as a course in the carrying and usage of firearms shall include the aspects of employee restraint and defensive missions of security guards in addition to following the format delineated in the bureau's "Firearms Training Manual" and shall be examined and approved by the bureau prior to use. Once the bureau has approved the textbooks or manuals, all firearm training facilities shall be required to instruct in accordance with one of the textbooks or manuals. In no event shall the class instruction total less than eight hours for the initial firearms qualification.

The range instruction for the initial firearms qualification shall not exceed eight hours and shall cover the following subjects:

(1) Range safety and procedure.

(2) Demonstration and dry firing.

(3) Practice rounds.

(4) Qualification firing.

(b) If a person fails to successfully complete the range instruction, that person may, at the discretion of the firearms training facility, continue range instruction for an additional eight hours. However, the person shall, in order to receive a firearms qualification card, be required to successfully pass the range instruction within 30 days of the passage of the classroom instruction.

(c) Prior to range instruction a person shall participate in the classroom instruction and pass a bureau-developed examination of

the subject matter with a minimum score of 85 percent. If a person fails to pass the written examination, he or she shall once more participate in the entire classroom instruction prior to retaking the examination. In no event shall a firearm instructor review the examination question by question with a person, allow a person to review the examination questions and answers, or in any manner assist a person with the examination.

7552.7. (a) Each firearms training facility shall be required to retain for two years the following information regarding each student:

(1) The student's name.

(2) The date of course completion.

(3) Any information regarding the passage or failure of the firearms training course.

(4) The instructor's name.

(5) The make and caliber of the qualifying weapon.

(6) The range scores.

(7) The written examination scores.

(b) Records shall be made available for examination by the bureau on demand.

(c) Each firearm training facility shall have a written procedure for the security of the written examination which shall be made available for inspection by the bureau on demand.

7553. (a) The course of training in the carrying and usage of the baton, the satisfactory completion of which shall be required of applicants who wish to obtain a baton permit, shall be in the format prescribed by the Department of Consumer Affairs as delineated in the bureau's "Baton Training Manual." The course of training contained in the manual shall include, but not be limited to, the following subjects:

(1) Moral and legal aspects of baton usage.

(2) Use of force.

(3) Baton familiarization and uses.

(4) First aid for baton injuries.

(5) Fundamentals of baton handling.

(A) Stances and grips.

(B) Target areas.

(C) Defensive techniques.

(D) Control techniques.

(E) Arrest and control techniques.

(6) Examination of the subject matter as taught in the classroom and as provided by the bureau.

(b) The baton training outline distributed by the Department of Justice shall be recognized as an approved outline for the baton training course until January 1, 1984, or until the bureau distributes the "Baton Training Manual."

7553.1. For purposes of this article "a baton course" means the baton training course as outlined in Section 7553.

7553.2. (a) Any institution, firm, or individual wishing approval

of the bureau to offer the baton course shall complete an application for certification as a baton training facility. The application shall be in a form prescribed by the chief and shall include, but not be limited to, all of the following information:

(1) The name, business address, and telephone number of the institution, firm or individual.

(2) A detailed description of the places, days, and times the course will be offered.

(3) An estimate of the minimum and maximum class size.

(4) Location and description of the facilities.

(5) The name or names of the baton instructors who will teach the course who have been certified by the bureau, and their certificate numbers if available.

(b) The application shall be accompanied by the fee prescribed in this chapter.

(c) No approval shall be given, and no certification shall be issued, to a baton training facility until a baton training instructor who has been certified by the bureau has been approved to teach the course.

(d) Upon approval by the bureau of a baton training facility, the chief shall issue to the facility a "Baton Training Facility Certificate." The certificate is valid only when the baton training facility has in its employ a baton training instructor who has been certified by the bureau. The certificate shall be posted in a conspicuous place at the facility.

7553.3. (a) Any individual who desires certification by the bureau to instruct the baton course shall complete an application for a baton training instructor certificate. An application shall be made on a form provided by the bureau.

(b) An applicant for a baton training instructor certificate shall meet the following minimum qualifications:

(1) Possess (A) an associate of arts degree in the administration of justice or the equivalent thereof, or (B) one year of teaching or training experience in the military, law enforcement, or a public or vocational school.

(2) Possess a basic certificate issued by the Commission on Peace Officer Standards and Training, or the equivalent thereof to be determined by the chief.

(c) The application shall be accompanied by the fee prescribed in this chapter.

(d) Upon approval by the bureau of an applicant for certification as a baton training instructor, the chief shall issue to the applicant a "Baton Training Instructor Certificate." The certificate shall be posted at the baton training site.

7553.4. All baton course material provided to the certificate holder in the "Baton Training Manual" issued by the bureau shall be covered in each class session. In no event shall the class instruction for the course required for baton certification total less than eight hours.

7553.5. (a) A baton training facility shall issue a certificate of

successful completion of the baton training course to any person who possesses a valid registration card issued pursuant to Article 3.2 (commencing with Section 7544) or Chapter 11.6 (commencing with Section 7590), has made application for such registration, and who has successfully completed the baton training course. The certificate is valid only when the holder possesses a valid guard or alarm agent registration card.

(b) The bureau shall issue baton training certificates to a baton training facility in good standing, upon request and upon payment of the fees as set forth in this chapter.

(c) Each baton training facility shall submit to the bureau, no later than five working days following certification for each person, the name, address, social security number, and baton certificate number of each person certified.

7553.6. (a) Each baton training facility shall be required to retain for two years the following information regarding each student:

(1) The student's name.

(2) The date of course completion.

(3) Any information regarding the passage or failure of the baton training course.

(4) The instructor's name.

(5) Written examination scores.

(b) Records shall be made available for examination by the bureau on demand.

(c) Each baton training facility shall have a written procedure for the security of the examinations and the baton certificates which shall be made available for inspection by the bureau on demand.

7554. Each firearms training facility or baton training facility shall notify the bureau within five working days whenever any training instructor certified by the bureau is employed or ceases to be employed with the training facility.

7554.1. Each firearms training facility, firearms training instructor, baton training facility, or baton training instructor shall report to the bureau the name of any person who, while taking the course, demonstrated that the carrying and usage of a firearm or the carrying and usage of a baton by that person would present an undue hazard to the safety of the public. The report shall contain the name and address of the student, the name of the student's employer, if available, and the reasons or specific incident which caused the certificate holder to make the report. All substantiating documents, including, but not limited to, an affidavit from the instructor regarding the incident, or reasons, shall be included in the report.

7554.2. (a) The chief may refuse to issue or may cancel a previously issued firearms training facility certificate, firearms training instructor certificate, baton training facility certificate, or baton training instructor certificate, or may assess fines pursuant to Section 7564, on the grounds that one or more instructors have done any of the following:

(1) Failed to maintain the records required by Section 7552.7 or

7553.6.

(2) Failed to submit the records to the bureau as required by Section 7553.5.

(3) Given inaccurate instructions regarding the laws of California and the regulations of the bureau, including, but not limited to, the necessity of an individual to possess a valid firearms qualification card issued by the bureau prior to carrying any firearm; or the necessity of an individual to possess a valid baton permit issued by the bureau prior to carrying any baton.

(4) Used improper caution while instructing students, so as to endanger the safety of students.

(5) Failed to instruct completely in accordance with the bureau's "Firearms Training Manual" as required by Section 7552.6.

(6) Failed to instruct completely in accordance with the bureau's "Baton Training Manual" as required by Section 7553.

(7) Allowed a noncertified instructor to teach any portion of the firearms course, including range qualification. This does not include range coaches employed to assist the instructor.

(8) Allowed a noncertified instructor to teach any portion of the baton course.

(9) Falsified any application for registration, firearms qualification card, firearms requalification permit, or baton certificate.

(10) Failed to inform the bureau of any range or classroom incident as required by Section 7554.1.

(11) Failed to notify the bureau of any change of employment pursuant to Section 7554.

(12) Made any false statement of fact required to be revealed in the application for certification as a firearms training facility or as a firearms training instructor.

(b) Fines shall not be assessed on firearms training facilities which are a part of the California community college system.

7554.3. (a) A firearms training facility certificate, a firearms training instructor certificate, a baton training facility certificate, or a baton training instructor certificate shall expire at midnight on the 31st day of May of each even-numbered year. To renew an unexpired certificate, the certificate holder shall apply for renewal on a form prescribed by the director and pay the renewal fee prescribed by this chapter.

(b) If renewal is granted, such evidence of renewal of the certificate as the director may prescribe shall be issued to the certificate holder.

(c) In the event the certificate holder fails to renew his or her training facility certificate or training instructor certificate, the certificate shall be automatically canceled, but may be reinstated within 30 days of the date of cancellation upon application for reinstatement and upon the payment of the reinstatement fee provided by this chapter. Reinstatement of a canceled certificate shall not prohibit the bringing of disciplinary proceedings for any act

committed in violation of this chapter during the period such certificate is canceled.

(d) A firearms training facility, a firearms training instructor, a baton training facility, or a baton training instructor whose certificate has not been renewed may obtain a new license only upon compliance with all of the provisions of this article relating to the issuance of an original certificate.

Article 5. Expiration and Renewal of License

7558. (a) Every private patrol operator and private investigator license, branch office certificate and pocket card issued under this chapter shall expire at 12 midnight on May 31 of each even-numbered year. Initial license fees shall be prorated as prescribed in this chapter.

(b) Every protection dog operator license, branch office certificate, and pocket card issued under this chapter shall expire at 12 midnight on May 31 of each year.

7558.1. To renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, 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, and renewal pocket cards for the persons mentioned in Section 7529, shall be issued to the licensee.

7558.5. Except as otherwise provided in this article, an expired license or branch office certificate may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the director, and payment of the renewal fee in effect on the last preceding regular renewal date. If the license or certificate is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed in this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the date provided in Section 7558 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

Renewal of a license or certificate shall not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

7559. A suspended license or branch office certificate 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 in any other activity or conduct in violation of the order or judgment by which the license was

suspended, and renewal of the branch office certificate does not entitle the licensee, while the certificate remains suspended, and until it is reinstated, to engage in the licensed activity at the location for which the certificate was issued, or to engage in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

7559.5. A revoked license or branch office certificate is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

7560. A license or branch office certificate which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter.

The holder of the license or certificate may obtain a new license or certificate only on compliance with all of the provisions of this chapter relating to the issuance of an original license or certificate.

Article 6. Disciplinary Proceedings

7561. Except as otherwise required to comply with the provisions of Section 7517.2 or Article 5 (commencing with Section 7557), the proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

7561.1. The director may suspend or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, 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 of this chapter.

(c) Violated any rule of the director adopted pursuant to the authority contained in this chapter.

(d) Committed any act or crime constituting grounds for denial of licensure under Section 480, including illegally using, carrying, or possessing a deadly weapon.

(e) Impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof.

(f) 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.

(g) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(h) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(i) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(j) Acted as a runner or capper for any attorney.

(k) Been convicted of a violation of Section 148 of the Penal Code.

(*l*) Committed any act which is a ground for denial of an application for license under this chapter.

(m) Committed any act prohibited by Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code.

(n) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this subdivision may be punished by the suspension of a license for a period to be determined by the director.

7561.2. The director may suspend the license or registration of any person who fails to notify the bureau of any change of address within 15 days of such change.

Any license or registration suspended pursuant to this section may only be reinstated upon the payment of a fee of fifteen dollars ($15) for registrants or twenty-five dollars ($25) for licensees.

7561.3. The director may suspend or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has

(a) Used any letterhead, advertisement or other printed matter, or in any manner whatever represented that he or she is an instrumentality of the federal government, a state, or any political subdivision thereof.

(b) Used a name different from that under which he or she is currently licensed in any advertisement, solicitation, or contract for business.

7561.4. The director may suspend or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has committed any act in the course of the licensee's business constituting dishonesty or fraud.

"Dishonesty or fraud" as used in this section, includes, in addition to other acts not specifically enumerated herein:

(a) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business.

(b) Using illegal means in the collection or attempted collection

of a debt or obligation.

(c) Manufacture of evidence.

(d) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his or her employment by such client or former client.

7562. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction as that term is used in this article, Section 7538, or Section 480.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article, Section 7538, or Section 480. The director may order the license suspended or revoked, or may decline to issue a license, 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 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

7563. The director, in lieu of suspending or revoking a license issued under this chapter for violations of Sections 7561.1, 7561.3, and 7561.4, may impose a civil penalty not to exceed five hundred dollars ($500) upon a licensee, if the director determines that such action better serves the purposes of this chapter.

7564. If, upon investigation, the director determines a licensee, including a corporation, or registrant is in violation of Section 7544.5, 7544.6, 7548, 7550.2, 7550.8, 7550.9, 7550.10, 7554.2, or 7561.2, the director may issue a citation to such licensee or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain an assessment of an administrative fine. The amount of the fine shall in no event exceed one thousand dollars ($1,000) or as otherwise provided in this chapter, whichever is less.

A citation or fine assessment shall inform the licensee or registrant that if he or she contests the finding of a violation, they may request a review by a disciplinary review committee in accordance with Section 7517.2, if allowed under this chapter. If a review is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

If the licensee or registrant neither requests a review nor pays the assessed fine within 20 days of the assessment, the director shall suspend the license or registration of such person 30 days after the assessment.

Administrative fines collected pursuant to this article shall be deposited in the Private Investigator Fund.

7564.1. The director may assess fines for the following acts pursuant to Article 3.2 (commencing with Section 7544) only as follows:

(a) Violation of subdivisions (a), (b), and (c) of Section 7544.5; twenty-five dollars ($25) per violation.

(b) Violation of subdivision (e) of Section 7544.5; twelve dollars ($12) per violation for the first 10 violations and fifty dollars ($50) per violation for each violation thereafter.

(c) Violation of subdivisions (g) and (h) of Section 7544.5; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

(d) Violation of subdivision (d) of Section 7544.5; one hundred dollars ($100) per violation.

(e) Violation of subdivision (f) of Section 7544.5; two hundred fifty dollars ($250) per violation.

7564.2. The director may assess fines for the following acts pursuant to Article 3.2 (commencing with Section 7544) only as follows:

(a) Violation of subdivisions (a) and (b) of Section 7544.6; ten dollars ($10) per violation.

(b) Violation of subdivision (c) of Section 7544.6; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

7564.3. The director may assess fines for the following acts pursuant to Article 3.2 (commencing with Section 7544) only as follows:

(a) Violation of subdivisions (c) and (d) of Section 7548; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(b) Violation of subdivision (a) of Section 7548; one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each violation thereafter.

(c) Violation of subdivision (e) of Section 7548; five hundred dollars ($500) for each violation.

(d) Violation of subdivision (b) of Section 7548; five hundred dollars ($500) for the first violation and suspension of a firearm qualification card for six months for each violation thereafter.

7564.4. The director may assess fines for the following acts only as follows:

(a) Violation of subdivision (a) of Section 7550.2; twenty-five dollars ($25) per violation.

(b) Violation of subdivision (b) of Section 7550.2; twelve dollars ($12) per violation for the first 10 violations and fifty dollars ($50) per violation for each violation thereafter.

(c) Violation of subdivision (c) or (d) of Section 7550.2; one hundred dollars ($100) per violation.

(d) Violation of subdivisions (e) and (f) of Section 7550.2; ten dollars ($10) per violation for the first 10 violations and twenty-five dollars ($25) per violation for each violation thereafter.

(e) Violation of subdivision (g) of Section 7550.2; one hundred dollars ($100) per violation.

(f) Violation of subdivision (h) of Section 7550.2; not to exceed five hundred dollars ($500) per violation.

(g) Violation of subdivision (i) of Section 7550.2; not to exceed five hundred dollars ($500) per violation.

(h) Violation of subdivision (a) or (b) of Section 7550.8; not to exceed five hundred dollars ($500) per violation.

(i) Violation of subdivision (c) or (d) of Section 7550.8; not to exceed one thousand dollars ($1,000) per violation.

(j) Violation of Section 7550.9; not to exceed one hundred dollars ($100) per violation.

(k) Violation of Section 7550.10; not to exceed twenty-five dollars ($25) per violation.

7564.5. The director may assess fines for the following acts only as follows:

(a) Violations of paragraph (1), (2), (11), or (12) of subdivision (a) of Section 7554.2; twenty-five dollars ($25) for each violation.

(b) Violations of paragraph (3), (7), (8), or (10) of subdivision (a) of Section 7554.2; one hundred dollars ($100) for each violation.

(c) Violations of paragraph (6) of subdivision (a) of Section 7554.2; two hundred fifty dollars ($250) for each hour shortened.

(d) Violations of paragraph (4) of subdivision (a) of Section 7554.2; five hundred dollars ($500) for each violation.

(e) Violations of paragraph (5) of subdivision (a) of Section 7554.2; five hundred dollars ($500) for every hour the course has been shortened.

(f) Violations of paragraph (9) of subdivision (a) of Section 7554.2; one thousand dollars ($1,000) for each violation.

7565. Any person who knowingly falsifies the fingerprints or photographs submitted under subdivision (f) of Section 7525.1 is guilty of a felony. Any person who violates any of the other provisions of this chapter is guilty of a misdemeanor punishable by a fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

Article 7. Revenue

7570. The amounts 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 private patrol operator or private investigator 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, one hundred dollars ($100).

(2) For a license as a private patrol operator, two hundred dollars ($200).

(3) For a license as a private investigator and private patrol operator, two hundred fifty dollars ($250).

(4) For a license as a protection dog operator, two hundred fifty dollars ($250).

(5) For a branch office certificate, twenty dollars ($20).

(e) The application and license fee for classifications prescribed by the director, in addition to those provided for in this chapter, and the application and the 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) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(h) The fee for reexamination of an applicant or his or her manager is ten dollars ($10).

(i) Registration fees for employees of licensees pursuant to this chapter shall be as follows:

(1) A registration fee of twelve dollars ($12).

(2) A protection dog operator employee registration renewal fee of ten dollars ($10).

(3) A security guard registration renewal fee of seven dollars ($7).

(j) Fees to carry out other provisions of this chapter shall be as follows:

(1) A firearms qualification fee of fifteen dollars ($15).

(2) A firearms requalification fee of ten dollars ($10).

(3) An initial baton certification fee of ten dollars ($10).

(4) An application fee and renewal fee for certification as a firearms training facility or a baton training facility of fifty dollars ($50).

(5) An application fee and renewal fee for certification as a firearms training instructor of twenty-five dollars ($25).

7571. The Department of Consumer Affairs shall receive and account for all money derived from the operation of this chapter and, at the end of each month, shall report such money to the Controller and shall pay it to the Treasurer, who shall keep the money in a separate fund known as the Private Investigator Fund. All money in

the Private Investigator Fund shall be expended in accordance with law by the bureau for the purpose of carrying out the provisions of this chapter.

7572. The department shall propose a separate budget and expenditure statement and a separate revenue statement outlining all money derived from and expended for the licensing and regulation of private investigators in accordance with the provisions of this chapter.

All money derived from the licensing and regulation of private investigators shall be expended exclusively on the licensing and regulation of private investigators. If, at the end of any fiscal year, the money derived from the licensing of private investigators and not expended pursuant to this section is an amount which equals or is more than the money necessary for the regulation of private investigators 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 money derived from the licensing of private investigators to an amount less than the money expended for the regulation of private investigators for the next two fiscal years.

7573. Application or license fees shall not be refunded except in accordance with Section 158.

SEC. 2.5. Chapter 11.5 (commencing with Section 7512) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 11.5. PRIVATE DETECTIVES

Article 1. General

7512. This chapter may be cited as the Private Investigator Act.

7512.1. As used in this chapter, "director" means the Director of Consumer Affairs, unless the context indicates otherwise.

7512.2. The director shall administer and enforce the provisions of this chapter.

7512.3. As used in this chapter, "person" includes any individual, firm, company, association, organization, partnership, and corporation.

7512.4. As used in this chapter, "bureau" means the Bureau of Collection and Investigative Services.

7512.5. As used in this chapter, "chief" means the Chief of the Bureau of Collection and Investigative Services.

7512.6. 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.

7512.7. As used in this chapter, "manager" means the individual under whose direction, control, charge, or management the business of a licensee is operated.

7512.8. A person registered under the provisions of subdivision (f) of Section 7515, Article 3.2 (commencing with Section 7544),

Article 3.3 (commencing with Section 7550) and Article 4 (commencing with Section 7552) shall be deemed to be a licensee for the purposes of this chapter.

7512.10. As used in this chapter, "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.

7512.11. As used in this chapter, "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.

7512.12. As used in this chapter, "employer-employee" relationship means a relationship in which an individual works for another, the individual's name appears on the payroll records of the employer, and the employee is under the direction and control of the employer.

7513. Every power and duty granted to or imposed upon the director may be exercised by any other officer or employee of the Department of Consumer Affairs authorized by the director, but the director shall have the supervision of and the responsibility for all powers and duties exercised by such officers and employees.

7513.5. The director may, in accordance with the State Civil Service Act and subject to the provisions of Section 159.5, appoint and fix the compensation of such inspectors, investigators, and other personnel as may be necessary for the enforcement of this chapter.

7514. Nothing in this chapter shall be construed as entitling any person to practice law in this state unless he or she is an active member of the State Bar of California.

Article 2. Administration

7515. 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 or she is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson, or employed by an 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.

(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 patrol person 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 as a private patrol operator must meet as a condition of handling guard dogs, which regulations shall be in addition to any regulations relating to protection dogs.

7516. 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 after 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 be actively engaged in business as a licensed private patrol operator, two members shall be actively engaged 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.

7516.1. 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, a chairperson, a vice chairperson, and a secretary, each of whom shall serve for a term of one year, 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.

7516.2. 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.

7516.3. The advisory board shall engage in the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, baton training instructors, alarm company operators, and alarm agents:

(a) Inquire into the needs of the private patrol and alarm company businesses, the functions and policies of the bureau, and shall make recommendations with respect thereto as may be deemed important and necessary for the public welfare, and the welfare and progress of the private patrol and alarm company businesses.

(b) Consider and make appropriate recommendations as to changes in, additions to, or deletions of, rules and regulations which may be deemed important and necessary to the private patrol and alarm company businesses.

(c) Assist the chief in the collection of information and data as the chief may deem necessary to the proper administration of this chapter.

(d) Coordinate and participate in the formulation 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 licenses, 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 formulation and validation of the "Powers to Arrest Manual," the "Firearm Training Manual," and the "Baton Training Manual" and update those manuals.

7517. The two licensed private patrol operators and five public members of the advisory board shall appoint two private security disciplinary review committees, and may remove any member of a

disciplinary review committee for misconduct, incompetency, or neglect of duty. One committee shall meet in the southern portion of the state and the other committee shall meet in the northern portion of the state.

Each disciplinary review committee shall consist of five members. Of the five members, one member shall be actively engaged in the business of a licensed private patrol operator, one member shall be actively engaged in the business of a firearm training facility, one member shall be actively engaged in the business of a registered security guard, and two members shall be public members. None of the public members shall be licensees or registrants or engaged in any business or profession in which any part of the fees, compensation, or revenue thereof, is derived from any licensee.

Each 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.

7517.1. Each disciplinary review committee shall perform the following functions as they pertain to private patrol operators, security guards, firearm qualification cardholders, firearm training facilities, firearm training instructors, baton training facilities, and baton training instructors:

(a) Affirm, rescind, or modify all appeals which concern administrative fines assessed by the director.

(b) Affirm, rescind, or modify all appeals which concern denials, revocations, or suspensions of a license, certificate, or registration except denials, revocations, 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.

7517.2. A private patrol operator, qualified manager of a private patrol operator, security guard, firearm qualification cardholder, firearm training facility, firearm training instructor, baton training facility, or baton training instructor may request a review by a disciplinary review committee to contest the assessment of an administrative fine or to appeal a denial, revocation, or suspension of a license, certificate, or registration unless the denial, revocation, 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.

A request for a review shall be by written notice to the chief within 20 days of the issuance of the citation and assessment, denial, revocation, or suspension.

Following a review by a 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 a disciplinary review committee, he or she 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. A request for a hearing

following a decision by a disciplinary review committee shall be by written notice to the chief within 30 days following notice of the committee's decision.

If the appellant does not request a hearing within 30 days, the review committee's decision shall become final.

7518. Except in cases where licensees are required to comply with the provisions of Section 7517.2, where a hearing is held under this chapter to determine whether an application for a license should be granted or to determine the qualifications of a licensee's manager, 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 director shall have all of the powers granted therein.

7519. The director shall furnish, at least once every two years, one copy of the current licensing law, rules, and regulations to every licensed business governed under this chapter, without charge. The director may charge and collect a fee equivalent to the cost of producing such documents for each additional copy which may be furnished upon request to any licensee or any applicant for licensure and for each copy furnished on request to any other person.

Article 3. Regulation, Licensing, and Registration

7520. No person shall engage in a business regulated by this chapter; act or assume to act as, or represent himself or herself to be, a licensee unless he or she is licensed under this chapter; and no person shall falsely represent that he or she is employed by a licensee.

7520.5. A provisional private investigator license may be issued by the director for a period not to exceed 90 days upon proof that the applicant is currently licensed in another state, as a private investigator, which state has similar qualification requirements for licensure and provides reciprocal provisional licensing for California's licensees. The proof required by the director shall be accompanied by payment of fifty dollars ($50.00) plus a set of valid fingerprints. The applicant shall be subject to all provisions of this chapter. The license may be renewed by the director.

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 a public utility regulated by the State Public Utilities Commission, 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 or she 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.

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include 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 and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such 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, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his or her duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) 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.

(j) A person engaged solely in the business of securing information about persons or property from public records.

(k) A peace officer of this state or a political subdivision thereof while such peace officer is employed by a private employer to engage in off-duty employment in accordance with the provisions of Section 1126 of the Government Code. However, nothing herein shall exempt such peace officer who contracts for his or her services or the services of others as a private investigator or private patrol

operator.

(*l*) A retired peace officer of the state or political subdivision thereof when such retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is in a uniform of a public law enforcement agency, has registered with the bureau on a form approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7545. Such officer may not carry a loaded or concealed firearm unless he or she is exempted under the provisions of subdivision (a) of Section 12027 of the Penal Code or paragraph (1) of subdivision (b) of Section 12031 of the Penal Code or has met the requirements set forth in Section 12033 of the Penal Code. However, nothing herein shall exempt such retired peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

(m) A licensed insurance adjuster in performing his or her duties within the scope of his or her license as an insurance adjuster.

(n) Any savings and loan association subject to the jurisdiction of the Savings and Loan Commissioner or the Federal Home Loan Bank Board.

(o) Any secured creditor engaged in the repossession of such creditor's collateral and any lessor engaged in the repossession of leased property in which it claims an interest.

7523. (a) Unless specifically exempted by Section 7522, no person shall engage in the business of private investigator, private patrol operator, or protection dog operator, as defined in Section 7521, unless that person has applied for and received a license to engage in that business pursuant to this chapter.

(b) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter, relating to private investigator licensure, is guilty of a misdemeanor punishable by fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

(c) Any person who violates any provision of this chapter or who conspires with another person to violate any provision of this chapter relating to private patrol operator licensure, is guilty of a misdemeanor punishable by fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

(d) 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.

(e) Any person who is convicted of a violation of the provisions of this section shall not be issued a license under this chapter, within one year following that conviction.

(f) The chief shall gather evidence of violations of this chapter and of any rule or regulation established pursuant to this chapter by persons engaged in the business of private investigator, private patrol operator, or protection dog operator who fail to obtain licenses and shall gather evidence of violations and furnish that evidence to prosecuting officers of any county or city for the purpose of prosecuting all violations occurring within their jurisdiction.

(g) The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his or her jurisdiction.

7523.5. (a) The superior court for the county in which any person has engaged or is about to engage in any act which constitutes a violation of Section 7523 may, upon a petition filed by the bureau with the approval of the director, issue an injunction or other appropriate order restraining such conduct. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

(b) The superior court for the county in which any person has engaged in any act which constitutues a violation of Section 7523 may, upon a petition filed by the bureau with the approval of the director, order such person to make restitution to persons injured as a result of the violation.

(c) The court may order a person subject to an injunction or restraining order, provided for in subdivision (a), or subject to an order requiring restitution pursuant to subdivision (b), to reimburse the bureau for expenses incurred by the bureau in its investigation related to its petition.

(d) The remedy provided for by this section shall be in addition to any other remedy provided for in this chapter.

7524. (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 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 7515.

(c) 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 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 and no application may 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.

7525. An application for a license under this chapter shall be on a form prescribed by the director and accompanied by the application fee provided by this chapter.

7525.1. An application shall be verified and shall include:

(a) The full name and business address of the applicant.

(b) The name under which the applicant intends to do business.

(c) A statement as to the general nature of the business in which the applicant intends to engage.

(d) A statement as to the classification or classifications under which the applicant desires to be qualified.

(e) A verified statement of his or her experience qualifications.

(f) If the applicant is an individual, a qualified manager, partner of a partnership or officer of a corporation designated in subdivision (i), 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, on a form approved by the Department of Justice, and a personal description of each such person, respectively. The identification form shall include residence addresses and employment history for the previous five years and be signed under penalty of perjury.

(g) In addition, if the applicant for license is an individual, the application shall list all other names known as or used during the past 10 years and shall state 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 be subscribed, verified, and signed by the applicant, under penalty of perjury, and if any other person is to be actively in charge of the business, the application shall also be subscribed, verified, and signed by that person under penalty of perjury.

(h) If the applicants for license are copartners, the application shall state the true names and addresses of all partners and the name of the partner to be actively in charge of the business for which the license is sought; and list all other names known as or used during the past 10 years, or if a qualified manager other than a partner is to be actively in charge of the business, then the application shall be subscribed, verified, and signed by all of the partners under penalty of perjury, and if any other person is to be actively in charge of the business, the application shall also be subscribed, verified, and signed by that person, under penalty of perjury, under penalty of perjury by all of the partners and qualified manager, or by all of the partners or the qualified manager.

(i) If the applicant for license is a corporation, the application shall state the true names, and complete residence addresses of the chief executive officer, chief operating officer and the chief financial officer of the corporation. 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 and by the qualified manager thereof, under penalty of perjury.

(j) Such other information, evidence, statements, or documents as may be required by the director.

7526. Before an application for a license is granted, the applicant or his or her manager, shall meet all of the following:

(a) Be at least 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of a license under Section 480.

(c) Comply with the requirements specified in this chapter for the particular license for which an application is made.

(d) Comply with such other qualifications as the director may fix by rule.

7527. The director may require an applicant or his or her manager, to demonstrate his or her qualifications by a written or oral examination, or a combination of both.

7527.5. Payment of the application fee prescribed by this chapter entitles an applicant or his or her manager to one examination without further charge. If the person fails to pass the examination, he or she shall not be eligible for any subsequent examination except upon payment of the reexamination fee prescribed by this chapter for each such subsequent examination.

7528. The chief shall issue a license, the form and content of which shall be determined by the chief in accordance with Section 164. In addition, the chief shall issue a "Certificate of Licensure" to any licensee, upon request and upon the payment of a fee of twenty-five dollars ($25).

7528.5. The license shall at all times be posted in a conspicuous place in the principal place of business of the licensee.

7529. Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the director shall be issued without charge to each licensee, if an individual, or if the licensee is a person other than an individual, to its manager and to each of its officers and partners, which card shall be evidence that the licensee is duly licensed pursuant to this chapter. The card shall contain the signature of the licensee, signature of the chief, and a photograph of the licensee, or bearer of the card, if the licensee is other than an individual, and clearly state that the person is licensed as a private investigator, private patrol operator or protection dog operator, or is the manager or officer of the licensee. When any person to whom a card is issued terminates his or her position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the bureau for cancellation.

7530. A license issued under this chapter is not assignable.

7531. A licensee shall at all times be legally responsible for the good conduct in the business of each of his or her employees or agents, including his or her manager.

7531.5. Each licensee shall maintain a record containing such information relative to his or her employees as may be prescribed by the director.

7532. No licensee shall conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the bureau to do so.

The bureau shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency or of that used by another licensee that the public may be confused or misled thereby.

The authorization shall require, as a condition precedent to the use of any fictitious name, that the licensee comply with Chapter 5 (commencing with Section 17900) of Part 3 of Division 7.

A licensee desiring to conduct his or her business under more than

one fictitious business name shall obtain the authorization of the bureau in the manner prescribed in this section for the use of each such name.

The licensee shall pay a fee of ten dollars ($10) for each authorization to use an additional fictitious business name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name the licensee shall pay a fee of ten dollars ($10) for such authorization.

7533. Each licensee shall file with the bureau the complete address of his or her principal place of business including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post office box. The director may require the filing of other information for the purpose of identifying such principal place of business.

7533.5. A licensee shall, within 30 days after such change, notify the bureau of any change of his or her address and of any change in its officers or partners. The principal place of business may be at a home or at a business address but it shall be the place at which the licensee maintains a permanent office.

Applications, on forms prescribed by the director, shall be submitted by all new officers or partners. The director may suspend or revoke a license issued under this chapter if he or she determines that at the time the person became an officer or partner of a licensee, any of the facts stated in Section 7538 or 7538.5 existed as to such person.

7534. Every advertisement by a licensee soliciting or advertising business shall contain his or her name, address and license number as they appear in the records of the bureau. The director may adopt regulations defining the term "advertisement" as used in this section.

7535. A licensee shall not advertise or conduct business from any location other than that shown on the records of the bureau as his or her principal place of business unless he or she has received a branch office certificate for such location after compliance with the provisions of this chapter and such additional requirements necessary for the protection of the public as the director may by regulation prescribe. A licensee shall notify the bureau in writing within 10 days after closing or changing the location of a branch office.

7536. (a) The business of each licensee shall be operated under the active direction, control, charge, or management, in this state, of the licensee, if he or she is qualified, or the person who is qualified to act as the licensee's manager, if the licensee is not qualified.

(b) No person shall act as a manager of a licensee until he or she has complied with each of the following:

(1) Demonstrated his or her qualifications by a written or oral examination, or a combination of both, if required by the director.

(2) Made a satisfactory showing to the director that he or she has

the qualifications prescribed in Section 7526 and that none of the facts stated in Section 7538 or 7538.5 exist as to him or her.

7537. (a) Except as provided in subdivision (c), where the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the licensee for any reason whatever, the business may be carried on for such temporary period and under such terms and conditions as the director shall provide by regulation, provided that application for permission to carry on the business is made to the chief within 90 days after the cessation, and the application is approved by the chief.

(b) In case of the death of a person licensed as an individual, a member of the immediate family of the deceased licensee shall be entitled to continue the business under the same license for a reasonable length of time as the director shall provide by regulation, provided that application for permission is made to the chief within 90 days following the death of the licensee, and the application is approved by the chief.

(c) If the manager, who has qualified as provided in Section 7536, ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the bureau in writing 30 days from such cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the director pending the qualifications of another manager as provided in this chapter. If the licensee fails to notify the bureau within the 30-day period, his or her license shall be subject to suspension or revocation and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, if any be due, and the qualification of a manager as provided in this chapter.

(d) A license extended under this section is subject to all other provisions of this chapter.

7538. After a hearing the director may deny a license unless the applicant makes a showing satisfactory to the director that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers have not:

(a) Committed any act, which, if committed by a licensee, would be a ground for the suspension or revocation of a license under this chapter.

(b) Committed any act constituting dishonesty or fraud.

(c) Committed any act or crime constituting grounds for denial of licensure under Section 480, including illegally using, carrying, or possessing a deadly weapon.

(d) Been refused a license under this chapter or had a license revoked.

(e) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(f) While unlicensed committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

(g) Knowingly made any false statement in his or her application.

7538.5. The director may refuse to issue any license provided for in this chapter to any person:

(a) Who has had any license revoked, or whose license is under suspension, or has failed to renew his or her license while it was under suspension.

(b) If any member of any partnership, or any officer or director of any corporation, or any officer or person acting in a managerial capacity of any firm or association has had any license issued to him or her revoked, or whose license is under suspension, or who has failed to renew his or her license while it was under suspension.

(c) If any member of the partnership, or any officer or director of the corporation, or any officer or person acting in a managerial capacity of the firm or association, was either a member of any partnership, or an officer or director of any corporation, or an officer or person acting in a managerial capacity of any firm or association, whose license has been revoked, or whose license is under suspension, or who failed to renew a license while it was under suspension, and while acting as such member, officer, director, or person acting in a managerial capacity participated in any of the prohibited acts for which any such license was revoked or suspended.

7539. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or his or her representative, any information he or she may acquire as to any criminal offense, but he or she shall not divulge to any other person, except as he or she may be required by law so to do, any information acquired by him or her except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager or employee of a licensee shall knowingly make any false report to his or her employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee, or officer, director, partner, manager, or employee of private investigator licensees, shall use a badge in connection with the official activities of the licensee's business.

(e) No licensee, or officer, director, partner, manager, or employee of a licensee, shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) No licensee, or officer, partner, qualified manager, or employee shall use any identification to indicate that he or she is licensed as a private investigator other than the official identification card issued by the bureau or the business card regularly used by the

business. However, a licensee may issue an employer identification card.

(g) No licensee, or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof, except premises commonly accessible to the public, without the consent of the owner or of the person in legal possession thereof.

(h) No private patrol licensee, or officer, director, partner, manager, or employee of a private patrol licensee shall use a badge, except while engaged in guard or patrol work and while wearing a uniform.

(i) 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 whatever conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in the name of and under the control of the licensee.

(j) No licensee, officer, director, partner, manager, or employee of a private investigator shall knowingly and directly solicit employment from any injured person or from any other person to obtain authorization on behalf of the injured person, as an investigator to investigate the accident or act which resulted in injury or death to such person or damage to the property of such person. Nothing in this subdivision shall prohibit the soliciting of employment from such injured person's attorney. This subdivision shall not apply to any business agent or attorney employed by a labor organization.

(k) No licensee, officer, director, partner, or manager of a private investigator shall pay or compensate any of his or her employees or agents on the basis of a bonus, bounty, or quota system whereby a premium is placed on the number of employer or client rule violations or infractions purportedly discovered as a result of any investigation made by a licensee.

(*l*) No licensee shall use a fictitious name in connection with the official activities of the licensee's business.

7539.5. Any badge or cap insignia worn by a person who is a licensee, officer, director, partner, manager, or employee of a licensee, shall be of a design approved by the director, and shall bear on its face a distinctive word indicating the name of the licensee and an employee number by which such person may be identified by the licensee.

The provisions of this section shall not be construed to authorize persons to wear badges who are prohibited by Section 7539 from wearing badges.

Article 3.1. Private Investigators

7540. For purposes of this article, "licensee" means a licensed private investigator.

7541. Except as otherwise provided by this section, an applicant,

or his or her manager, for a license as a private investigator shall have had at least three years' experience in investigation work or the equivalent thereof as determined by the director.

A year's experience shall consist of not less than 2,000 hours of actual compensated work performed by each applicant preceding the filing of an application.

An applicant who holds a law degree or who has completed a four-year course in police science, criminal justice, criminal law, or the equivalent thereof shall be required to have had two years' experience in investigation work or the equivalent thereof, as determined by the director.

An applicant shall substantiate the claimed years of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply the written certifications from the employer in whole or in part, applicants may offer other written certifications from other than employers substantiating employment for consideration by the chief.

7542. Every licensee and qualified manager who in the course of his or her employment or business carries a deadly weapon shall complete a course of training in the exercise of the powers to arrest as specified in Section 7545.2 and a course of training in the carrying and use of firearms as specified in Article 3.2 (commencing with Section 7544). No licensee or qualified manager shall carry or use a firearm unless he or she has met the requirements of Sections 7547.1, 7547.3, and 7547.4 and has in his or her possession a valid firearms qualification card as provided in Section 7547.5. A licensee or qualified manager who possesses a valid firearms qualification card shall comply with and be subject to the provisions of Sections 7547.6, 7547.7, and 7548.

7542.1. Every licensee and any person employed and compensated by a licensee who in the course of such employment or business carries tear gas or any other nonlethal chemical agent shall complete the required course pursuant to Section 12403.5 of the Penal Code.

Article 3.2. Private Patrol Operators

7544. For purposes of this article, "licensee" means a licensed private patrol operator.

7544.1. An applicant, or his or her manager, for a license as a private patrol operator shall have had at least one year of experience as a patrolman, guard or watchman, or the equivalent thereof as determined by the director. An applicant shall substantiate the claimed year of qualifying experience and the exact details as to the character and nature thereof by written certifications from the employer, subject to independent verification by the chief as he or she may determine. In the event of inability of an applicant to supply

the written certifications from the employer in whole or in part, applicants may offer other written certifications from other than employers substantiating employment for consideration by the chief.

7544.5. No person licensed as a private patrol operator shall do any of the following:

(a) Fail to properly 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 while on duty. Within seven days after a licensee or his or her employees discover that a deadly weapon which has been recorded as being in his or her possession has been misplaced, lost, or stolen, or in any other way missing, the licensee or his or her manager shall mail or deliver to the chief and to any local law enforcement agency who has jurisdiction, a written report concerning 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.

(b) Fail to properly maintain an accurate and current record of the name, address, commencing date of employment, and position of each employee, and the date of termination of employment when an employee is terminated.

(c) Fail to properly maintain an accurate and current record of proof of completion by each employee of the licensee of the course of training in the exercise of the power to arrest as required by Section 7545.

(d) Fail to certify an employee's completion of the course of training in the exercise of the power to arrest prior to placing such employee at a duty station.

(e) Fail to either certify proof of current and valid registration for each employee who is subject to registration or fail to require an employee to complete an application for registration within three working days after employing an individual who does not possess a current and valid registration from the bureau.

(f) Permit any employee to carry a firearm or other deadly weapon without first ascertaining that such employee is proficient in the use of each weapon to be carried. With respect to firearms, evidence of proficiency shall include a certificate from a firearm training facility approved by the director certifying that such employee is proficient in the use of that specified caliber of firearm and a current and valid firearm qualification permit issued by the department. With respect to other deadly weapons, evidence of proficiency shall include a certificate from a training facility approved by the director certifying that such employee is proficient in the use of that particular deadly weapon.

(g) Fail to deliver to the director a written report describing fully the circumstances surrounding the discharge of any firearm by a licensee or any officer, partner, or employee of a licensee while acting within the course and scope of his or her employment within seven days after the incident. Such report shall include, but not be

limited to, a description of any injuries or damages incurred, the identity of all participants, and whether a police investigation was conducted.

(h) Fail to notify the bureau in writing and within 30 days that a manager previously qualified pursuant to this chapter is no longer connected with the licensee.

7544.6. No uniformed employee of a private patrol operator shall do any of the following:

(a) Fail to carry on his or her person, while on duty, a valid and current security guard registration card or a copy of a valid application for such a registration card.

(b) Fail to carry on his or her person a valid and current firearms permit when carrying a firearm on duty.

(c) Carry or use a firearm unless he or she possesses a valid and current firearms permit from the department and evidence of proficiency in the use of the weapon carried. Proficiency may be evidenced by a certificate from a firearm training facility approved by the director certifying that such person is proficient in the use of that specified caliber of firearm.

7545. (a) Every licensee and any person employed and compensated by a licensee, 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.

7545.1. Every person entering the employ of a licensee to perform the functions of a security guard or a security patrolperson shall complete a course in the exercise of the power to arrest prior to being assigned to a duty location.

7545.2. (a) 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 shall cover the following topics:

(1) Responsibilities and ethics in citizen arrest.
(2) Relationship with the public police in arrest.
(3) Limitations on security guard power to arrest.
(4) Restrictions on searches and seizures.
(5) Criminal and civil liabilities.
(A) Personal liability.
(B) Employer liability.

(b) The department shall make available a guidebook 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 to be taken by security personnel.

7545.3. No employee of a licensee who performs the function of a security guard or security patrolperson shall be issued a registration 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.

7546. Within three working days after employment, any employee who performs the function of a security guard or security patrolperson 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. "Within three working days after employment" means within 72 hours from the time an employee is first compensated by a licensee for security guard or security patrolperson services. No application is required to be submitted if the employee terminates within the three working days. The licensee shall maintain supplies of applications and fingerprint cards which shall be provided by the bureau upon request.

7546.1. 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.

7546.2. The application shall be verified and shall include all of the following:

(a) The full name, residence address, telephone number, date of birth, and social security number of the employee.

(b) The name, address, telephone number, and license number of the employer and the date the employment commenced.

(c) The signature of the employee and the employer's certification that the employee has received a course in the exercise of the power to arrest.

(d) A statement as to whether the employee has been convicted of a misdemeanor, excluding minor traffic violations.

(e) A statement as to whether the employee has been convicted of a felony.

7546.3. An employee of a licensee may be assigned to work with a temporary registration card which indicates completion of the course in the exercise of the power to arrest until the bureau issues

a registration card or denies the application for registration.

7546.4. No employee of a licensee shall carry or use a firearm unless the employee has in his or her possession a valid guard registration card and a valid firearm qualification card issued pursuant to this chapter.

7546.5. (a) The bureau, upon receipt of a criminal offense record or record of a subsequent arrest from the Department of Justice, shall make an immediate determination of fitness of (1) applicants for registration under this article, or (2) applicants for firearm qualification cards, when information contained in the records of the Department of Justice makes such a determination possible. Applications of those determined to be unfit shall be immediately denied.

(b) The bureau shall keep a current and accurate record of the individuals who have applied for and been denied registration under this article or a firearms qualification card. A list consisting of individual names and other pertinent identifying information may be made of those individuals who have been denied registration. The list may be updated bimonthly and made available to interested licensees and law enforcement agencies.

7546.6. (a) If the chief determines that an applicant's criminal history contains open arrest information, the chief shall issue a notice to the applicant allowing 45 days for the applicant to provide documentation concerning the disposition of the arrest or arrests.

(b) The notice shall be sent to the applicant at his or her last known residential address and shall provide sufficient information to assist the applicant in complying with the chief's request. 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, or suspend the registration.

7546.7. If the chief determines that continued employment of an applicant or registrant, in his or her current capacity, may present an undue hazard to the 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.

7546.8. (a) The chief may refuse to register any employee, or may suspend or revoke a previously issued registration, if the individual has committed any action which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license issued under this chapter.

(b) The denial of an application for registration under this article 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 a disciplinary review committee to contest the denial, the review shall be requested of the director within 20 days following notice of the issuance of the denial.

7546.9. Upon approval of an application for registration, the chief shall cause to be issued to the applicant at his or her last known residential address a registration card in a form approved by the director. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a two dollar ($2) certification fee, whereupon the bureau shall issue a certified replacement of the card.

7546.10. A qualified manager who complies with Section 7536 is not required to register under this article.

7546.11. A licensee shall at all times be responsible for ascertaining that those of his or her employees which are subject to registration are currently registered or have made proper application for registration as provided in this article. A licensee may not have in his or her employment a person whose registration has expired or been revoked, denied, suspended, or canceled.

7546.12. (a) A registration shall be effective for two years and 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 continue 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, for renewal of his or her registration.

(b) The licensee shall provide to any employee information regarding procedures for renewal or registration.

(c) 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.

(d) 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.

7547. (a) Every licensee, qualified manager of a licensee, or security guard 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.

(b) A licensee shall not permit an employee to carry or use a loaded or unloaded firearm, whether or not it is serviceable or operative, unless the employee possesses a valid and current firearms qualification card issued by the bureau.

7547.1. The bureau shall issue a firearms qualification card when all of the following conditions are satisfied:

(a) The applicant is a licensee, a qualified manager of a licensee, or a registered uniformed security guard.

(b) A certified firearms training instructor has certified that the

applicant has successfully completed a written examination prepared by the bureau and training course in the carrying and use of firearms approved by the bureau.

(c) 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.

(d) 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 that the carrying and use of a firearm by the applicant is not in violation of Section 12021 of the Penal Code.

7547.3. If an applicant fails to complete his or her application within one year after it has been filed, the application shall be considered to be abandoned. An application submitted subsequent to the abandonment of the former application shall be treated as a new application.

7547.4. 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 a disciplinary review committee to contest the denial, the review shall be requested of the director within 20 days following notice of the issuance of the denial. However, no review shall be granted to an individual who is prohibited from carrying a firearm pursuant to Section 12021 of the Penal Code.

7547.5. The firearms qualification card, if issued, 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.

7547.6. 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.

7547.7. (a) 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 card's 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.

(b) The bureau shall not renew a firearms qualification card unless all of the following conditions are satisfied:

(1) 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.

(2) The applicant has requalified on the range at a training facility approved by the bureau.

(3) The application is accompanied by a firearms requalification fee as prescribed in this chapter.

7547.8. Any licensee, qualified manager, or a registered uniformed security guard who wishes to carry a baton in the performance of his or her duties, shall qualify to carry the weapon pursuant to Article 4 (commencing with Section 7552).

7547.9. A licensee shall not permit any employee to carry a baton prior to ascertaining that the employee is proficient in the use of the weapon. Evidence of proficiency shall include a certificate from a baton training facility approved by the bureau which certifies that the employee is proficient in the use of the baton.

7547.10. Every licensee, qualified manager, or a registered uniformed security guard, who in the course of his or her employment carries tear gas or any other nonlethal chemical agent, shall complete the required course pursuant to Section 12403.5 of the Penal Code.

7547.11. 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 training facility approved by the Department of Justice or by the Commission on Peace Officers Standards and Training that the person is proficient in the use of tear gas or any other nonlethal chemical agent.

7548. The director may assess fines as enumerated in Article 6 (commencing with Section 7561). 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. In addition to other prohibited acts under this chapter:

(a) No licensee, qualified manager, or registered uniformed security guard shall carry any inoperable, replica, or other simulated firearm.

(b) No licensee, qualified manager, or registered uniformed security guard shall use a firearm in violation of the law or in knowing violation of the standards for the carrying and usage of firearms as taught in the course of training in the carrying and use of firearms. Such unlawful or prohibited uses of firearms shall include, but not be limited to, the following:

(1) Illegally using, carrying, or possessing a dangerous weapon.

(2) Brandishing a weapon.

(3) Drawing a weapon without proper cause.

(4) Provoking a shooting incident without cause.

(5) Carrying or using a firearm while on duty while under the influence of alcohol or dangerous drugs.

(6) Carrying or using a firearm of a caliber for which a firearms permit has not been issued by the bureau.

(c) No licensee, qualified manager, or registered uniformed security guard shall carry or use a baton in the performance of his or her duties, unless he or she has in his or her possession a valid baton certificate issued pursuant to Section 7553.5.

(d) No licensee, qualified manager, or registered uniformed security guard 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 any other nonlethal chemical agent.

(e) No licensee, qualified manager, or registered uniformed security guard 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.

7548.5. A city, county, or city and county may regulate the uniforms and insignias worn by uniformed employees of a private patrol operator and vehicles used by a private patrol operator to make the uniforms and vehicles clearly distinguishable from the uniforms worn by, and the vehicles used by, local regular law enforcement officers.

7549. No private patrol operator who employs a security guard who carries a firearm as part of his or her duties shall engage in any of the practices for which he or she is required to be licensed by this chapter, unless he or she maintains an insurance policy as defined in Section 7549.1.

7549.1. "Insurance policy," as used in this article, means a contract of liability insurance issued by an insurance company authorized to transact business in this state which provides minimum limits of insurance of five hundred thousand dollars ($500,000) for any one loss due to bodily injury or death and five hundred thousand dollars ($500,000) for any one loss due to injury or destruction of property.

7549.2. Proof that a licensee maintains an insurance policy as required by this article shall be provided by the licensee to the bureau upon demand.

7549.3. The failure of a private patrol operator to maintain an insurance policy as required by this article shall constitute grounds for the suspension of the private patrol operator's license.

Article 3.3. Protection Dog Operators

7550. As used in this article, the term "licensee" means a protection dog operator licensed under this chapter.

7550.1. An applicant for a license as a protection dog operator, owner or manager shall have had previous experience in training a protection dog for others, and shall take and pass an examination administered by the bureau.

7550.2. No person licensed as a protection dog operator shall do any of the following:

(a) Fail to maintain a record of the name, address, and

commencing and termination date of employment, of each employee.

(b) Fail to certify proof of current and valid registration of all employees subject to registration.

(c) Sell, let, or train any protection dog that has not been immunized against rabies. Proof of immunization shall consist of a valid certificate of rabies vaccination and shall be provided to any person who in any way obtains a protection dog from a protection dog operator.

(d) Fail to have a current and valid certificate of rabies vaccination for every protection dog owned by the operator.

(e) Fail to register each protection dog which he or she handles or trains with the local animal control officer, the local law enforcement agency and with the state, city, county or district fire department which has the responsibility for the prevention and suppression of fires in the area in which the protection dog operator does business.

(f) Fail to notify such appropriate local law enforcement agency and such appropriate fire department by mail not more than 15 days before a protection dog is sent on an assignment of the location and duration of such assignment.

(g) Print, or cause to be printed, any advertisement or brochure without including his or her protection dog operator's license number in the advertisement.

(h) Train a protection dog with the intent that the dog shall be engaged in an exhibition of fighting or knowingly sell or let a protection dog which is intended to be engaged in an exhibition of fighting.

(i) Fail to provide a protection dog confined in an enclosed area with an adequate exercise area. If the protection dog is restricted by a leash, rope, or chain, the leash, rope, or chain shall be affixed in such a manner that it will prevent the dog from becoming entangled or injured and permit the dog's access to adequate shelter, food, and water.

7550.3. (a) Every person employed by a licensee who engages in the providing, handling, training, and selling of protection dogs shall be registered with the bureau in the manner prescribed by this article.

(b) Every person entering the employ of a licensee shall file with the bureau an application for registration within three working days after the commencement of such employment. "Within three working days after employment" means 72 hours from the time an employee is first compensated by a licensee for services. No application is required to be submitted if the employee terminates employment within the three working days.

7550.31. The application for registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee prescribed in this chapter.

7550.32. The application shall be verified and shall include all of

the following:

(a) The full name, residence address, telephone number, date of birth, and social security number of the employee.

(b) The name, address, telephone number, and license number of the employer and the date employment commenced.

(c) The signature of the employee.

(d) A statement as to whether the employee has been convicted of a misdemeanor, excluding minor traffic violations.

(e) A statement as to whether the employee has been convicted of a felony.

7550.4. Managers who comply with other provisions of this chapter are not required to register under this article.

7550.5. Upon approval of an application for registration, the chief shall cause to be issued to the applicant at his or her last known residential address a registration card in a form approved by the director. In the event of the loss or destruction of the card, the cardholder may apply to the bureau for a certified replacement of the card, stating the circumstances surrounding the loss, and pay a two dollar ($2) certification fee, whereupon the bureau shall issue a certified replacement of the card.

7550.6. The director may refuse to register any employee, or may suspend or revoke a previously issued registration, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this chapter.

7550.7. (a) A registration shall expire on the 31st day of December of the second calendar year following the date of issuance, and every two years thereafter. At least 60 days prior to the expiration of registration, a registrant who desires to renew his or her registration shall forward to the bureau a copy of his or her current registration card, with the renewal fee as set forth in this chapter, for renewal of his or her registration.

(b) An expired registration may not be renewed.

(c) If the renewed registration card has not been delivered to the registrant prior to the date of expiration of the prior registration, the registrant may present evidence of renewal to substantiate continued registration for a period not to exceed 90 days after the date of expiration.

7550.8. No person licensed as a protection dog operator or registered as an employee of a protection dog operator shall do any of the following:

(a) Fail to transport a protection dog anywhere in a secure, humane manner that will reasonably prevent its possible escape.

(b) Fail to visit a protection dog which is on actual duty at least once every 12 hours to ensure that the dog's physical condition, its shelter, and its food and water supply are adequate; if inadequate, the protection dog operator or registered employees shall do whatever may be necessary to correct or remedy the situation.

(c) Fail to accompany and remain with a protection dog which is

assigned to duty in any portion of any business establishment which is open to the general public for the entire length of time that the protection dog is on duty.

(d) Knowingly overwork, or torture, torment, neglect, abandon, deprive of necessary sustenance or care, drink or shelter, beat, mutilate, or unjustifiably kill any protection dog. The words "torment" and "torture" include every act, omission, or neglect whereby unnecessary or unjustifiable physical pain or suffering is caused or permitted.

7550.9. Each protection dog shall at all times wear an identification tag. The identification tag shall be provided by the protection dog operator who furnishes the dog for hire. The identification tag shall contain, but not be limited to, the name, address, and telephone number of the protection dog operator. The telephone shall be monitored 24 hours a day so that calls of the public may be received and answered.

The identification tag required by this section shall be in addition to any tag required or issued by any agency of government to show that a dog has been immunized or inoculated against disease.

7550.10. A protection dog operator shall furnish a statement containing the following to any person who in any way obtains a protection dog from the licensee: "Protection dog operators are regulated by the Bureau of Collection and Investigative Services, 1920 20th Street, Sacramento, CA 95814."

Article 4. Firearms and Baton Training Facilities

7552. The course of training in the carrying and usage of firearms, the satisfactory completion of which shall be required of applicants who wish to obtain a firearms qualification card, shall be in the format prescribed by the Department of Consumer Affairs as delineated in the bureau's "Firearms Training Manual." The course of training contained in the manual shall include, but not be limited to, the following:

(a) Moral and legal aspects of firearms usage.

(b) Firearms nomenclature and maintenance.

(c) Weapon handling and shooting fundamentals.

(d) Emergency procedures.

(e) Prequalification range training, including the firing of practice rounds.

(f) Qualification course of fire.

(g) Examination which has been provided by the bureau of the subject matter taught.

7552.1. For purposes of this article, "firearms course" means the firearms training course as outlined in Section 7552.

7552.2. The firearms requalification course shall consist of the successful completion of a firearms requalification course approved by the bureau.

7552.3. (a) Any institution, firm, or individual wishing the

approval of the bureau to offer the firearms course shall complete an application for certification as a firearms training facility. The application shall be in a form prescribed by the chief and shall include, but not be limited to, the following information:

(1) The name, business address, and telephone number of the institution, firm, or individual.

(2) A detailed description of the places, days, and times the course will be offered.

(3) An estimate of the minimum and maximum class size.

(4) The location and description of the range facilities.

(5) The name or names of the firearms training instructors who will teach the course who have been certified by the bureau, and their certificate numbers, if available.

(b) The application shall be accompanied by the fee prescribed in this chapter.

7552.4. Upon approval by the bureau of a firearms training facility, the chief shall issue to the facility a "Firearms Training Facility Certificate." The certificate is valid only when the firearms training facility has in its employ a firearms training instructor who has been certified by the bureau. The certificate shall be posted in a conspicuous place at the facility.

7552.5. (a) Any individual who desires certification by the bureau to instruct a firearms course shall complete an application for a firearms training instructor certificate. An application shall be made on a form provided by the bureau.

(b) An applicant for a firearms training instructor certificate shall meet the following minimum qualifications:

(1) Possess any of the following:

(A) An associate of arts degree in the administration of justice or the equivalent thereof.

(B) One year of teaching or training experience in the military, law enforcement, or a public or vocational school.

(C) A teaching credential issued by the State of California.

(2) Possess any of the following certificates, or the equivalent thereof to be determined by the chief:

(A) A firearms instructor training certificate issued by the Commission on Peace Officer Standards and Training.

(B) A police firearms instructor training certificate issued by the National Rifle Association.

(C) A firearms training certificate issued by a federal, state, or local law enforcement agency.

(c) The application shall be accompanied by the fee prescribed in this chapter.

(d) Upon approval by the bureau of an applicant for certification as a firearms training instructor, the chief shall issue to the applicant a "Firearms Training Instructor Certificate." The certificate shall be posted at the training site.

7552.6. (a) All firearms course material provided to the certificate holder in the "Firearms Training Manual" issued by the

bureau shall be covered in each class session. Any course textbook or manual developed to be used by a firearm training facility as a course in the carrying and usage of firearms shall include the aspects of employee restraint and defensive missions of security guards in addition to following the format delineated in the bureau's "Firearms Training Manual" and shall be examined and approved by the bureau prior to use. Once the bureau has approved the textbooks or manuals, all firearm training facilities shall be required to instruct in accordance with one of the textbooks or manuals. In no event shall the class instruction total less than eight hours for the initial firearms qualification.

The range instruction for the initial firearms qualification shall not exceed eight hours and shall cover the following subjects:

(1) Range safety and procedure.

(2) Demonstration and dry firing.

(3) Practice rounds.

(4) Qualification firing.

(b) If a person fails to successfully complete the range instruction, that person may, at the discretion of the firearms training facility, continue range instruction for an additional eight hours. However, the person shall, in order to receive a firearms qualification card, be required to successfully pass the range instruction within 30 days of the passage of the classroom instruction.

(c) Prior to range instruction a person shall participate in the classroom instruction and pass a bureau-developed examination of the subject matter with a minimum score of 85 percent. If a person fails to pass the written examination, he or she shall once more participate in the entire classroom instruction prior to retaking the examination. In no event shall a firearm instructor review the examination question by question with a person, allow a person to review the examination questions and answers, or in any manner assist a person with the examination.

7552.7. (a) Each firearms training facility shall be required to retain for two years the following information regarding each student:

(1) The student's name.

(2) The date of course completion.

(3) Any information regarding the passage or failure of the firearms training course.

(4) The instructor's name.

(5) The make and caliber of the qualifying weapon.

(6) The range scores.

(7) The written examination scores.

(b) Records shall be made available for examination by the bureau on demand.

(c) Each firearm training facility shall have a written procedure for the security of the written examination which shall be made available for inspection by the bureau on demand.

7553. (a) The course of training in the carrying and usage of the

baton, the satisfactory completion of which shall be required of applicants who wish to obtain a baton permit, shall be in the format prescribed by the Department of Consumer Affairs as delineated in the bureau's "Baton Training Manual." The course of training contained in the manual shall include, but not be limited to, the following subjects:

(1) Moral and legal aspects of baton usage.

(2) Use of force.

(3) Baton familiarization and uses.

(4) First aid for baton injuries.

(5) Fundamentals of baton handling.

(A) Stances and grips.

(B) Target areas.

(C) Defensive techniques.

(D) Control techniques.

(E) Arrest and control techniques.

(6) Examination of the subject matter as taught in the classroom and as provided by the bureau.

(b) The baton training outline distributed by the Department of Justice shall be recognized as an approved outline for the baton training course until January 1, 1984, or until the bureau distributes the "Baton Training Manual."

7553.1. For purposes of this article "a baton course" means the baton training course as outlined in Section 7553.

7553.2. (a) Any institution, firm, or individual wishing approval of the bureau to offer the baton course shall complete an application for certification as a baton training facility. The application shall be in a form prescribed by the chief and shall include, but not be limited to, all of the following information:

(1) The name, business address, and telephone number of the institution, firm or individual.

(2) A detailed description of the places, days, and times the course will be offered.

(3) An estimate of the minimum and maximum class size.

(4) Location and description of the facilities.

(5) The name or names of the baton instructors who will teach the course who have been certified by the bureau, and their certificate numbers if available.

(b) The application shall be accompanied by the fee prescribed in this chapter.

(c) No approval shall be given, and no certification shall be issued, to a baton training facility until a baton training instructor who has been certified by the bureau has been approved to teach the course.

(d) Upon approval by the bureau of a baton training facility, the chief shall issue to the facility a "Baton Training Facility Certificate." The certificate is valid only when the baton training facility has in its employ a baton training instructor who has been certified by the bureau. The certificate shall be posted in a conspicuous place at the facility.

7553.3. (a) Any individual who desires certification by the bureau to instruct the baton course shall complete an application for a baton training instructor certificate. An application shall be made on a form provided by the bureau.

(b) An applicant for a baton training instructor certificate shall meet the following minimum qualifications:

(1) Possess (A) an associate of arts degree in the administration of justice or the equivalent thereof, or (B) one year of teaching or training experience in the military, law enforcement, or a public or vocational school.

(2) Possess a basic certificate issued by the Commission on Peace Officer Standards and Training, or the equivalent thereof to be determined by the chief.

(c) The application shall be accompanied by the fee prescribed in this chapter.

(d) Upon approval by the bureau of an applicant for certification as a baton training instructor, the chief shall issue to the applicant a "Baton Training Instructor Certificate." The certificate shall be posted at the baton training site.

7553.4. All baton course material provided to the certificate holder in the "Baton Training Manual" issued by the bureau shall be covered in each class session. In no event shall the class instruction for the course required for baton certification total less than eight hours.

7553.5. (a) A baton training facility shall issue a certificate of successful completion of the baton training course to any person who possesses a valid registration card issued pursuant to Article 3.2 (commencing with Section 7544) or Chapter 11.6 (commencing with Section 7590), has made application for such registration, and who has successfully completed the baton training course. The certificate is valid only when the holder possesses a valid guard or alarm agent registration card.

(b) The bureau shall issue baton training certificates to a baton training facility in good standing, upon request and upon payment of the fees as set forth in this chapter.

(c) Each baton training facility shall submit to the bureau, no later than five working days following certification for each person, the name, address, social security number, and baton certificate number of each person certified.

7553.6. (a) Each baton training facility shall be required to retain for two years the following information regarding each student:

(1) The student's name.

(2) The date of course completion.

(3) Any information regarding the passage or failure of the baton training course.

(4) The instructor's name.

(5) Written examination scores.

(b) Records shall be made available for examination by the bureau on demand.

(c) Each baton training facility shall have a written procedure for the security of the examinations and the baton certificates which shall be made available for inspection by the bureau on demand.

7554. Each firearms training facility or baton training facility shall notify the bureau within five working days whenever any training instructor certified by the bureau is employed or ceases to be employed with the training facility.

7554.1. Each firearms training facility, firearms training instructor, baton training facility, or baton training instructor shall report to the bureau the name of any person who, while taking the course, demonstrated that the carrying and usage of a firearm or the carrying and usage of a baton by that person would present an undue hazard to the safety of the public. The report shall contain the name and address of the student, the name of the student's employer, if available, and the reasons or specific incident which caused the certificate holder to make the report. All substantiating documents, including, but not limited to, an affidavit from the instructor regarding the incident, or reasons, shall be included in the report.

7554.2. (a) The chief may refuse to issue or may cancel a previously issued firearms training facility certificate, firearms training instructor certificate, baton training facility certificate, or baton training instructor certificate, or may assess fines pursuant to Section 7564, on the grounds that one or more instructors have done any of the following:

(1) Failed to maintain the records required by Section 7552.7 or 7553.6.

(2) Failed to submit the records to the bureau as required by Section 7553.5.

(3) Given inaccurate instructions regarding the laws of California and the regulations of the bureau, including, but not limited to, the necessity of an individual to possess a valid firearms qualification card issued by the bureau prior to carrying any firearm; or the necessity of an individual to possess a valid baton permit issued by the bureau prior to carrying any baton.

(4) Used improper caution while instructing students, so as to endanger the safety of students.

(5) Failed to instruct completely in accordance with the bureau's "Firearms Training Manual" as required by Section 7552.6.

(6) Failed to instruct completely in accordance with the bureau's "Baton Training Manual" as required by Section 7553.

(7) Allowed a noncertified instructor to teach any portion of the firearms course, including range qualification. This does not include range coaches employed to assist the instructor.

(8) Allowed a noncertified instructor to teach any portion of the baton course.

(9) Falsified any application for registration, firearms qualification card, firearms requalification permit, or baton certificate.

(10) Failed to inform the bureau of any range or classroom

incident as required by Section 7554.1.

(11) Failed to notify the bureau of any change of employment pursuant to Section 7554.

(12) Made any false statement of fact required to be revealed in the application for certification as a firearms training facility or as a firearms training instructor.

(b) Fines shall not be assessed on firearms training facilities which are a part of the California community college system.

7554.3. (a) A firearms training facility certificate, a firearms training instructor certificate, a baton training facility certificate, or a baton training instructor certificate shall expire at midnight on the 31st day of May of each even-numbered year. To renew an unexpired certificate, the certificate holder shall apply for renewal on a form prescribed by the director and pay the renewal fee prescribed by this chapter.

(b) If renewal is granted, such evidence of renewal of the certificate as the director may prescribe shall be issued to the certificate holder.

(c) In the event the certificate holder fails to renew his or her training facility certificate or training instructor certificate, the certificate shall be automatically canceled, but may be reinstated within 30 days of the date of cancellation upon application for reinstatement and upon the payment of the reinstatement fee provided by this chapter. Reinstatement of a canceled certificate shall not prohibit the bringing of disciplinary proceedings for any act committed in violation of this chapter during the period such certificate is canceled.

(d) A firearms training facility, a firearms training instructor, a baton training facility, or a baton training instructor whose certificate has not been renewed may obtain a new license only upon compliance with all of the provisions of this article relating to the issuance of an original certificate.

Article 5. Expiration and Renewal of License

7558. (a) Every private patrol operator and private investigator license, branch office certificate and pocket card issued under this chapter shall expire at 12 midnight on May 31 of each even-numbered year. Initial license fees shall be prorated as prescribed in this chapter.

(b) Every protection dog operator license, branch office certificate, and pocket card issued under this chapter shall expire at 12 midnight on May 31 of each year.

7558.1. To renew an unexpired license or certificate, the licensee shall, on or before the date on which it would otherwise expire, 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, and renewal pocket cards for the persons mentioned in Section 7529,

shall be issued to the licensee.

7558.5. Except as otherwise provided in this article, an expired license or branch office certificate may be renewed at any time within five years after its expiration on filing of application for renewal on a form prescribed by the director, and payment of the renewal fee in effect on the last preceding regular renewal date. If the license or certificate is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed in this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the date provided in Section 7558 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

Renewal of a license or certificate shall not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

7559. A suspended license or branch office certificate 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 in any other activity or conduct in violation of the order or judgment by which the license was suspended, and renewal of the branch office certificate does not entitle the licensee, while the certificate remains suspended, and until it is reinstated, to engage in the licensed activity at the location for which the certificate was issued, or to engage in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

7559.5. A revoked license or branch office certificate is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

7560. A license or branch office certificate which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter.

The holder of the license or certificate may obtain a new license or certificate only on compliance with all of the provisions of this chapter relating to the issuance of an original license or certificate.

Article 6. Disciplinary Proceedings

7561. Except as otherwise required to comply with the provisions of Section 7517.2 or Article 5 (commencing with Section 7557), the

proceedings under this article shall be conducted in accordance with Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, and the director shall have all the powers granted therein.

7561.1. The director may suspend or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, 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 of this chapter.

(c) Violated any rule of the director adopted pursuant to the authority contained in this chapter.

(d) Committed any act or crime constituting grounds for denial of licensure under Section 480, including illegally using, carrying, or possessing a deadly weapon.

(e) Impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof.

(f) 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.

(g) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(h) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(i) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(j) Acted as a runner or capper for any attorney.

(k) Been convicted of a violation of Section 148 of the Penal Code.

(*l*) Committed any act which is a ground for denial of an application for license under this chapter.

(m) Committed any act prohibited by Chapter 1.5 (commencing with Section 630) of Title 15 of Part 1 of the Penal Code.

(n) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this subdivision may be punished by the suspension of a license for a period to be determined by the director.

7561.2. The director may suspend the license or registration of any person who fails to notify the bureau of any change of address within 15 days of such change.

Any license or registration suspended pursuant to this section may only be reinstated upon the payment of a fee of fifteen dollars ($15)

for registrants or twenty-five dollars ($25) for licensees.

7561.3. The director may suspend or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual. that any of its officers, directors, partners, or its manager, has:

(a) Used any letterhead, advertisement or other printed matter, or in any manner whatever represented that he or she is an instrumentality of the federal government, a state, or any political subdivision thereof.

(b) Used a name different from that under which he or she is currently licensed in any advertisement, solicitation, or contract for business.

7561.4. The director may suspend or revoke a license issued under this chapter if he or she determines that the licensee or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has committed any act in the course of the licensee's business constituting dishonesty or fraud.

"Dishonesty or fraud" as used in this section, includes, in addition to other acts not specifically enumerated herein:

(a) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business.

(b) Using illegal means in the collection or attempted collection of a debt or obligation.

(c) Manufacture of evidence.

(d) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his or her employment by such client or former client.

7562. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction as that term is used in this article, Section 7538, or Section 480.

A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article, Section 7538, or Section 480. The director may order the license suspended or revoked, or may decline to issue a license, 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 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

7563. The director, in lieu of suspending or revoking a license issued under this chapter for violations of Sections 7561.1, 7561.3, and 7561.4, may impose a civil penalty not to exceed five hundred dollars ($500) upon a licensee, if the director determines that such action

better serves the purposes of this chapter.

7564. If, upon investigation, the director determines a licensee, including a corporation, or registrant is in violation of Section 7544.5, 7544.6, 7548, 7550.2, 7550.8, 7550.9, 7550.10, 7554.2, or 7561.2, the director may issue a citation to such licensee or registrant. The citation shall be in writing and shall describe with particularity the nature of the violation, including specific reference to the provision of law determined to have been violated. If the director deems it appropriate, the citation may contain an order of abatement fixing a reasonable time for abatement of the violation and may contain an assessment of an administrative fine. The amount of the fine shall in no event exceed one thousand dollars ($1,000) or as otherwise provided in this chapter, whichever is less.

A citation or fine assessment shall inform the licensee or registrant that if he or she contests the finding of a violation, they may request a review by a disciplinary review committee in accordance with Section 7517.2, if allowed under this chapter. If a review is not requested pursuant to this section, payment of any fine shall not constitute an admission of the violation charged.

If the licensee or registrant neither requests a review nor pays the assessed fine within 20 days of the assessment, the director shall suspend the license or registration of such person 30 days after the assessment.

Administrative fines collected pursuant to this article shall be deposited in the Private Investigator Fund.

7564.1. The director may assess fines for the following acts pursuant to Article 3.2 (commencing with Section 7544) only as follows:

(a) Violation of subdivisions (a), (b), and (c) of Section 7544.5; twenty-five dollars ($25) per violation.

(b) Violation of subdivision (e) of Section 7544.5; twelve dollars ($12) per violation for the first 10 violations and fifty dollars ($50) per violation for each violation thereafter.

(c) Violation of subdivisions (g) and (h) of Section 7544.5; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

(d) Violation of subdivision (d) of Section 7544.5; one hundred dollars ($100) per violation.

(e) Violation of subdivision (f) of Section 7544.5; two hundred fifty dollars ($250) per violation.

7564.2. The director may assess fines for the following acts pursuant to Article 3.2 (commencing with Section 7544) only as follows:

(a) Violation of subdivisions (a) and (b) of Section 7544.6; ten dollars ($10) per violation.

(b) Violation of subdivision (c) of Section 7544.6; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) per violation for each violation thereafter.

7564.3. The director may assess fines for the following acts

pursuant to Article 3.2 (commencing with Section 7544) only as follows:

(a) Violation of subdivisions (c) and (d) of Section 7548; twenty-five dollars ($25) for the first violation and one hundred dollars ($100) for each violation thereafter.

(b) Violation of subdivision (a) of Section 7548; one hundred dollars ($100) for the first violation and five hundred dollars ($500) for each violation thereafter.

(c) Violation of subdivision (e) of Section 7548; five hundred dollars ($500) for each violation.

(d) Violation of subdivision (b) of Section 7548; five hundred dollars ($500) for the first violation and suspension of a firearm qualification card for six months for each violation thereafter.

7564.4. The director may assess fines for the following acts only as follows:

(a) Violation of subdivision (a) of Section 7550.2; twenty-five dollars ($25) per violation.

(b) Violation of subdivision (b) of Section 7550.2; twelve dollars ($12) per violation for the first 10 violations and fifty dollars ($50) per violation for each violation thereafter.

(c) Violation of subdivision (c) or (d) of Section 7550.2; one hundred dollars ($100) per violation.

(d) Violation of subdivisions (e) and (f) of Section 7550.2; ten dollars ($10) per violation for the first 10 violations and twenty-five dollars ($25) per violation for each violation thereafter.

(e) Violation of subdivision (g) of Section 7550.2; one hundred dollars ($100) per violation.

(f) Violation of subdivision (h) of Section 7550.2; not to exceed five hundred dollars ($500) per violation.

(g) Violation of subdivision (i) of Section 7550.2; not to exceed five hundred dollars ($500) per violation.

(h) Violation of subdivision (a) or (b) of Section 7550.8; not to exceed five hundred dollars ($500) per violation.

(i) Violation of subdivision (c) or (d) of Section 7550.8; not to exceed one thousand dollars ($1,000) per violation.

(j) Violation of Section 7550.9; not to exceed one hundred dollars ($100) per violation.

(k) Violation of Section 7550.10; not to exceed twenty-five dollars ($25) per violation.

7564.5. The director may assess fines for the following acts only as follows:

(a) Violations of paragraph (1), (2), (11), or (12) of subdivision (a) of Section 7554.2; twenty-five dollars ($25) for each violation.

(b) Violations of paragraph (3), (7), (8), or (10) of subdivision (a) of Section 7554.2; one hundred dollars ($100) for each violation.

(c) Violations of paragraph (6) of subdivision (a) of Section 7554.2; two hundred fifty dollars ($250) for each hour shortened.

(d) Violations of paragraph (4) of subdivision (a) of Section 7554.2; five hundred dollars ($500) for each violation.

(e) Violations of paragraph (5) of subdivision (a) of Section 7554.2; five hundred dollars ($500) for every hour the course has been shortened.

(f) Violations of paragraph (9) of subdivision (a) of Section 7554.2; one thousand dollars ($1,000) for each violation.

7565. Any person who knowingly falsifies the fingerprints or photographs submitted pursuant to any provision of this chapter is guilty of a felony. Any person who violates any of the other provisions of this chapter is guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars ($1,000) or by imprisonment in the county jail not to exceed one year, or by both such fine and imprisonment.

Article 7. Revenue

7570. The amounts 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 private patrol operator or private investigator 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, one hundred dollars ($100).

(2) For a license as a private patrol operator, two hundred dollars ($200).

(3) For a license as a private investigator and private patrol operator, two hundred fifty dollars ($250).

(4) For a license as a protection dog operator, two hundred fifty dollars ($250).

(5) For a branch office certificate, twenty dollars ($20).

(e) The application and license fee for classifications prescribed by the director, in addition to those provided for in this chapter, and the application and the 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) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(h) The fee for reexamination of an applicant or his or her manager is ten dollars ($10).

(i) Registration fees for employees of licensees pursuant to this chapter shall be as follows:

(1) A registration fee of twelve dollars ($12).

(2) A protection dog operator employee registration renewal fee of ten dollars ($10).

(3) A security guard registration renewal fee of seven dollars ($7).

(j) Fees to carry out other provisions of this chapter shall be as follows:

(1) A firearms qualification fee of fifteen dollars ($15).

(2) A firearms requalification fee of ten dollars ($10).

(3) An initial baton certification fee of ten dollars ($10).

(4) An application fee and renewal fee for certification as a firearms training facility or a baton training facility of fifty dollars ($50).

(5) An application fee and renewal fee for certification as a firearms training instructor of twenty-five dollars ($25).

7571. The Department of Consumer Affairs shall receive and account for all money derived from the operation of this chapter and, at the end of each month, shall report such money to the Controller and shall pay it to the Treasurer, who shall keep the money in a separate fund known as the Private Investigator Fund. All money in the Private Investigator Fund shall be expended in accordance with law by the bureau for the purpose of carrying out the provisions of this chapter.

7572. The department shall propose a separate budget and expenditure statement and a separate revenue statement outlining all money derived from and expended for the licensing and regulation of private investigators in accordance with the provisions of this chapter.

All money derived from the licensing and regulation of private investigators shall be expended exclusively on the licensing and regulation of private investigators. If, at the end of any fiscal year, the money derived from the licensing of private investigators and not expended pursuant to this section is an amount which equals or is more than the money necessary for the regulation of private investigators 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 money derived from the licensing of private investigators to an amount less than the money expended for the regulation of private investigators for the next two fiscal years.

7573. Application or license fees shall not be refunded except in accordance with Section 158.

SEC. 3. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his or her person or in

a vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

Every person convicted under this section who has previously been convicted of an offense enumerated in Section 12001.6, or of any crime made punishable under this chapter, shall serve a term of at least three months in the county jail, or, if granted probation, or if the execution or imposition of sentence is suspended, it shall be a condition thereof that he or she be imprisoned for a period of at least three months.

The court shall apply the three-month minimum sentence except in unusual cases where the interests of justice would best be served by granting probation or suspending the imposition or execution of sentence without the minimum imprisonment required in this subdivision or by granting probation or suspending the imposition or execution of sentence with conditions other than those set forth in this subdivision, in which case, the court shall specify on the record and shall enter on the minutes the circumstances indicating that the interests of justice would best be served by such a disposition.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while the person is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm in public every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph and the date when the endorsement is to be reviewed again.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4.

(5) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977;

or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to that section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his or her power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators and private patrol operators who are licensed pursuant to Chapter 11.5 (commencing with Section 7512) of, and alarm company operators who are licensed pursuant to Chapter 11.6 (commencing with Section 7590) of, Division 3 of the Business and Professions Code, while acting within the course and

scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, and uniformed alarm agents employed by an alarm company operator, while actually engaged in protecting and preserving the property of their employers or on duty or en route to or from their residence or their place of employment. Security guards and alarm agents en route to or from their residence or employer-required range training. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and private investigators licensed pursuant to Chapter 11.5 (commencing with Section 7512) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his or her person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of

any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or herself or of another is in immediate, grave danger and that the carrying of such weapon is necessary for the preservation of such person or property. As used in this subdivision "immediate" means the brief interval before and after the local law enforcement agency, when reasonably possible, has been notified of the danger and before the arrival of its assistance.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(*l*) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his or her place of residence, including any temporary residence or campsite.

SEC. 4. Section 12033 of the Penal Code is amended to read:

12033. The Department of Consumer Affairs may issue a certificate to any person referred to in subdivision (d) of Section 12031, upon notification by the school where the course was completed, that the person has successfully completed a course in the carrying and use of firearms and a course of training in the exercise of the powers of arrest which meet the standards prescribed by the department pursuant to Section 7545 of the Business and Professions Code.

SEC. 4.5. Section 2.5 of this act shall become operative, and Section 2 of this act shall not become operative, only if Senate Bill No. 155 is chaptered before this bill.

SEC. 5. 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 the only costs which may be incurred by a local agency or school district will be because this act creates a new crime or infraction or eliminates a crime or infraction. Furthermore, this act does not create any present or future obligation to reimburse any local agency or school district for any costs incurred because of this act.

CHAPTER 1197

An act to amend Section 49452.5 of the Education Code, relating to pupil health.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 49452.5 of the Education Code is amended to read:

49452.5. The governing board of any school district shall, subject

to Section 49451 and in addition to the physical examinations required pursuant to Sections 208, 321, and 323.7 of the Health and Safety Code, provide for the screening of every female pupil in grade 7 and every male pupil in grade 8 for the condition known as scoliosis. The screening shall be in accord with standards established by the State Department of Education. The screening shall be supervised only by qualified supervisors of health as specified in Sections 44871 to 44878, inclusive, and Section 49422, or by school nurses employed by the district or the county superintendent of schools, or pursuant to contract with an agency authorized to perform these services by the county superintendent of schools of the county in which the district is located pursuant to Sections 1750 to 1754, inclusive, and Section 49402 of this code, Section 485 of the Health and Safety Code, and guidelines established by the State Board of Education. The screening shall be given only by individuals who supervise, or who are eligible to supervise, the screening, or licensed chiropractors, or by certificated employees of the district or of the county superintendent of schools who have received in-service training, pursuant to rules and regulations adopted by the State Board of Education, to qualify them to perform these screenings. It is the intent of the Legislature that these screenings be performed, at no additional cost to the state, the school district, or the parent or guardian, during the regular schoolday and that any staff time devoted to these activities be redirected from other ongoing activities not related to the pupil's health care. Any individual performing the screening of a particular pupil for scoliosis pursuant to this section is prohibited from treating that pupil for scoliosis should that pupil be found to have such a condition.

In-service training may be conducted by orthopedic surgeons, physicians, registered nurses, physical therapists, and chiropractors, who have received specialized training in scoliosis detection.

Pupils suspected of having scoliosis during the initial screening shall be rescreened by an orthopedic surgeon when there will be no cost to the state, the school district, or the parent or guardian.

The governing board of any school district shall provide for the notification of the parent or guardian of any pupil suspected of having scoliosis. The notification shall include an explanation of scoliosis, the significance of treating it at an early age, and the public services available, after diagnosis, for treatment. Referral of the pupil and the pupil's parent or guardian to appropriate community resources shall be made pursuant to Sections 49426 and 49456.

No action of any kind in any court of competent jurisdiction shall lie against any individual, authorized by this section to supervise or give a screening, by virtue of the provisions of this section.

CHAPTER 1198

An act to amend Sections 434.5 and 435 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 434.5 of the Revenue and Taxation Code is amended to read:

434.5. (a) On March 1, 1984, and March 1 of each year thereafter, the value per acre of timberland zoned under the provisions of Section 51110 or Section 51113 of the Government Code shall be determined from the following schedule:

Redwood region		Pine-mixed conifer region	
Site I	$180	Site I	$98
Site II	$150	Site II	$69
Site III	$130	Site III	$56
Site IV	$114	Site IV	$39
Site V (and inoperable)	$35	Site V (and inoperable)	$23

When the assessor, pursuant to Section 434, designates a timberland parcel or portion thereof as inoperable, that timberland parcel or portion thereof shall be valued as if it is Site V.

(b) In 1985, the board shall determine the current value of timberland by the following process:

(1) For each fiscal year between July 1, 1979, and June 30, 1984, divide the total value of all timber harvested within the state, less miscellaneous forest products not reported by board foot volume, by the total volume of timber harvested, as reported pursuant to Section 38402. Average the five fiscal year values to obtain the five-year periodic immediate harvest value.

(2) For each fiscal year between July 1, 1978, and June 30, 1983, follow the same procedure as described in paragraph (1).

(3) Divide the value obtained by paragraph (1) by the value obtained by paragraph (2) to obtain the percentage change, rounded to the nearest one-tenth of 1 percent.

(4) Increase or decrease to the nearest dollar the full market values contained in subdivision (a) by one-half of the percentage change determined by paragraph (3).

(c) Beginning January 1, 1986, and each year thereafter, the board shall determine the current value of timberland using the same procedure as described in subdivision (b), except that such adjustment shall be made to the prior year's adjusted values, and the five-year periodic immediate harvest values shall be successively one year more recent.

(d) The board shall certify the values determined pursuant to this section to the county assessors by January 10 of each year.

(e) The Legislature finds and declares that the foregoing values are consistent with the taxation of timberland used primarily for growing timber and that these values are consistent with the intent of subdivision (j) of Section 3 of Article XIII of the Constitution.

SEC. 2. Section 435 of the Revenue and Taxation Code is amended to read:

435. (a) In preparing the assessment roll for the 1984–85 fiscal year and each fiscal year thereafter, the assessor shall use as the value of each parcel of timberland the appropriate site value pursuant to Section 434.5 plus the value, if any, attributable to existing, compatible, nonexclusive uses of the land. Assessments of values attributable to compatible uses determined in accordance with this part are subject to the appeals procedure established by law for other assessments.

(b) Nothing in this article shall prevent the assessor in valuing timberland from taking into consideration the existence of any mines, minerals, and quarries in or upon the land being valued, including, but not limited to, geothermal resources and oil, gas, and other hydrocarbon substances.

(c) The provisions of this article shall not apply to any structure on the land being valued or to an area of reasonable size used as a site for approved compatible uses.

CHAPTER 1199

An act to add and repeal Article 4 (commencing with Section 69560) of Chapter 2 of Part 42 of the Education Code, relating to postsecondary education.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Article 4 (commencing with Section 69560) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 4. Student Opportunity and Access Program

69560. The Legislature finds and declares that:

(a) Lack of information about postsecondary opportunities and low achievement levels are primary barriers to college for low-income and ethnic minority students.

(b) Stipends for college students of low-income backgrounds to provide informational and tutorial help for low-income and ethnic minority students is a cost-effective method of increasing access and

of providing student financial aid.

(c) Interinstitutional outreach programs reduce the duplication of outreach efforts among colleges, are more cost-effective than single-institution outreach programs, and improve the services available to secondary school students.

69561. The Student Aid Commission shall apportion funds for the support of projects designed to increase the accessibility of postsecondary educational opportunities to low-income and ethnic minority secondary school students. These projects shall primarily (1) increase the availability of information for low-income and ethnic minority students on the existence of postsecondary schooling and work opportunities, and (2) raise the achievement levels of low-income and ethnic minority students so as to increase the number of high school graduates eligible to pursue postsecondary learning opportunities. Projects may also assist low-income and ethnic minority community college students in transferring to four-year institutions, to the extent that project resources are available. Projects supported by the commission shall also meet the following criteria:

(a) Each project shall be proposed and operated interinstitutionally, involving at least one secondary school district office and one community college and two of the following educational agencies: nonprofit educational, counseling, or community agencies; the University of California; the California State University; the California Maritime Academy; independent colleges and universities, or eligible private vocational or technical schools. As used in this article, eligible private vocational or technical schools shall include schools accredited by a national, state, or regional accrediting association recognized by the United States Office of Education. The commission, in awarding project grants, shall give priority to proposals developed by more than three eligible agencies. At least one project shall be located in a rural area.

(b) Prior to receiving a project grant, each consortium shall conduct a planning process and submit a comprehensive project proposal to include, but not be limited to, the following information: (1) the agencies participating in the project, (2) the students to be served by the project, (3) the ways in which the project will reduce duplication and related costs, (4) the methods for assessing the project's impact, and (5) the alternative means for long-term support of the project.

(c) Each project shall include the direct involvement of secondary school staff in the operations of the project, with preference in funding to those projects which place the administrative responsibility with the school district.

(d) Each project shall maintain within the project headquarters a comprehensive student-specific information system on low-income and ethnic minority students in the eleventh and twelfth grades at secondary schools within the participating districts. This information shall be maintained in a manner consistent with the law relating to

pupil records.

(e) At least 30 percent of each project grant shall be allocated for stipends to peer advisors and tutors who (1) work with low-income and ethnic minority high school students, (2) are currently enrolled in a college or other postsecondary school as an undergraduate or graduate student, and (3) have demonstrated financial need for the stipend.

(f) The activities of each project should enhance the activities of existing educational opportunity programs. The Student Aid Commission may develop additional regulations regarding the award of project grants.

69562. The commission shall establish an 13-member project grant advisory committee to advise project directors and the commission on the development and operation of the projects, and consisting of the following:

(a) Three educational opportunity or student affirmative action program directors, representing the University of California, the California State University, and the California Community Colleges, appointed by their respective governing boards.

(b) One representative of private colleges and universities, appointed by the Association of Independent Colleges and Universities.

(c) One representative of the California Postsecondary Education Commission, appointed by the commission.

(d) Two secondary school staff, appointed by the Superintendent of Public Instruction.

(e) Two persons representing the general public, one appointed by the Speaker of the Assembly and the other by the Senate Rules Committee.

(f) Two postsecondary students, both appointed annually by the Student Advisory Committee of the California Postsecondary Education Commission.

(g) One college campus financial aid officer and one representative of the Student Aid Commission, both appointed by the Student Aid Commission.

The Superintendent of Public Instruction shall appoint a representative of the State Department of Education to consult with the advisory committee in the development of criteria and guidelines for the selection of projects and the identification of potential funding sources within the postsecondary education sector.

69563. By December 31, 1987, the California Postsecondary Education Commission shall complete an evaluation of each of the funded interinstitutional projects. This evaluation shall assess the relative success of each project in achieving its objectives and identify those projects which are the most cost-effective. Funding for those projects which are considered either ineffective or not cost-effective shall be eliminated after the third year, with the funding for these projects made available to new interinstitutional efforts. In making this assessment, special consideration shall be

given to rural projects with a recognition that operating costs will be higher in rural than in urban areas. Every third year, a similar review process shall occur, with the ineffective projects eliminated.

69564. Allocation of any funds appropriated for purposes of this article shall be limited to those agencies meeting requirements of this article and providing equal dollar matching support from existing or budgeted increases in federal, state, local, and private funds.

69565. This article 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.

CHAPTER 1200

An act to amend Sections 6795, 6797, 6799, 8800, 8801, 8802, 8804.5, and 8805 of the Business and Professions Code, relating to the Board of Registration for Professional Engineers, and making an appropriation therefor.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983.]

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

SECTION 1. Section 6795 of the Business and Professions Code is amended to read:

6795. Certificates of registration as a professional engineer, and certificates of authority, shall be valid for a period of four years from the assigned date of renewal. Quadrennial renewals shall be staggered on a quarterly basis. To renew an unexpired certificate, the certificate holder shall, on or before the date of expiration indicated on the renewal receipt, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 2. Section 6797 of the Business and Professions Code is amended to read:

6797. 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 such money to the State Controller and shall pay it to the State Treasurer, who shall keep the money in a separate fund known as the Professional Engineer's and Land Surveyor's Fund.

For accounting and recordkeeping purposes, the Professional Engineer's and Land Surveyor's Fund shall be deemed to be a single special fund, and shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

The fees and civil penalties received under this chapter shall be deposited in the Professional Engineer's and Land Surveyor's Fund. All moneys in the fund are hereby appropriated for the purposes of

this chapter.

SEC. 3. Section 6799 of the Business and Professions Code is amended to read:

6799. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for registration as a professional engineer and each application for authority level designation at not more than one hundred seventy-five dollars ($175), and for each application for certification as an engineer-in-training at not more than sixty dollars ($60).

(b) The temporary registration fee for a professional engineer at not more than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for each branch of professional engineering in which registration is held, and the renewal fee for each authority level designation held, at no more than the professional engineer application fee currently in effect.

(d) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(e) All other document fees are to be set by the board by rule.

Applicants wishing to be examined in more than one branch of engineering shall be required to pay the additional fee for each examination after the first.

SEC. 4. Section 8800 of the Business and Professions Code is amended to read:

8800. The department shall receive and account for all money derived under the operation of this chapter and, at the end of each month, shall report such money to the State Controller and shall pay it to the State Treasurer, who shall keep the money in a separate fund known as the Professional Engineer's and Land Surveyor's Fund.

For accounting and recordkeeping purposes, the Professional Engineer's and Land Surveyor's Fund shall be deemed to be a single special fund, and shall be available for expenditure only for the purposes as are now or may hereafter be provided by law.

The fees and civil penalties received under this chapter shall be deposited in the Professional Engineer's and Land Surveyor's Fund. All moneys in the fund are hereby appropriated for the purposes of this chapter.

SEC. 5. Section 8801 of the Business and Professions Code is amended to read:

8801. Licenses issued under this chapter expire every four years, if not renewed. Quadrennial renewals shall be staggered on a quarterly basis. To renew an unexpired license the license holder shall on or before the date of expiration indicated on the renewal receipt, apply for renewal on a form prescribed by the board, and pay the renewal fee prescribed by this chapter.

SEC. 6. Section 8802 of the Business and Professions Code is amended to read:

8802. Except as otherwise provided in this article, licenses issued

under this chapter may be renewed at any time within five years after expiration on filing of application for renewal on a form prescribed by the board and payment of the renewal fee in effect on the last regular renewal date. If the license is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license shall continue in effect through the date provided in Section 8801 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

SEC. 7. Section 8804.5 of the Business and Professions Code is amended to read:

8804.5. The board may make refunds of all fees in accordance with Section 158 of this code.

SEC. 8. Section 8805 of the Business and Professions Code is amended to read:

8805. The amount of the fees prescribed by this chapter shall be fixed by the board in accordance with the following schedule:

(a) The fee for filing each application for licensure as a land surveyor at not more than one hundred seventy-five dollars ($175), and for each application for certification as a land surveyor-in-training (LSIT) at not more than sixty dollars ($60).

(b) The temporary registration fee for a land surveyor at not more than 25 percent of the application fee in effect on the date of application.

(c) The renewal fee for a land surveyor at not more than the application fee.

(d) The delinquency fee at not more than 50 percent of the renewal fee in effect on the date of reinstatement.

(e) All other document fees are to be set by the board by rule.

CHAPTER 1201

An act to amend Sections 1904 and 1906 of the Welfare and Institutions Code, relating to youth service bureaus.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 1904 of the Welfare and Institutions Code is amended to read:

1904. From any state moneys made available to it for such purpose, the Department of the Youth Authority shall, in accordance

with this article, share in the cost of each youth service bureau meeting the standards prescribed for youth service bureaus by the department at the rate of 50 percent of the actual fiscal year costs of each youth service bureau, or eighty-seven thousand two hundred dollars ($87,200) per fiscal year for each youth service bureau, whichever amount is the lesser.

The provisions of this section shall not be construed to prohibit the grant of a cost-of-living increase to youth service bureaus. It shall be determined in the annual Budget Act whether local matching funds shall be required with any cost-of-living increase granted from the General Fund.

SEC. 2. Section 1906 of the Welfare and Institutions Code is amended to read:

1906. The Department of the Youth Authority shall submit a report to the Legislature by January 1, 1984, describing the youth service bureaus funded by this article. Such report shall include, but not be limited to, the types of services and programs offered by each bureau, the number and characteristics of the clients served, the source of referrals, the services provided to clients and the dispositions of cases.

CHAPTER 1202

An act to add and repeal Section 21025.1 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 28, 1983]

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

SECTION 1. Section 21025.1 is added to the Government Code, to read:

21025.1. The governing body of a contracting agency shall make its determination within six months of the date of the receipt by the contracting agency of the request by the board pursuant to Section 21024 for a determination with respect to a local safety member.

A local safety member may waive the requirements of this section.

This section shall remain in effect only until January 1, 1990, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1990, deletes or extends such date.

SEC. 2. Notwithstanding Section 6 of Article XIII B of the California Constitution and Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act for the purpose of making reimbursement pursuant to these sections. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1

of that code.

CHAPTER 1203

An act to add Section 30237 to the Public Resources Code, relating to coastal resources, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with Secretary of State September 29, 1983]

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

SECTION 1. Section 30237 is added to the Public Resources Code, to read.

30237. (a) This section shall apply only to the Bolsa Chica wetlands or a portion thereof in the County of Orange.

The County of Orange or any landowner may petition the Department of Fish and Game, on or before October 1, 1983, to prepare a habitat conservation plan. Upon receipt of the petition, the Department of Fish and Game and the State Coastal Conservancy, in cooperation with the county and any landowner, shall jointly prepare a habitat conservation plan in order to carry out the following objectives:

(1) To provide for the conservation of the habitat of fish and wildlife resources.

(2) To anticipate and resolve potential conflicts between the conservation of fish and wildlife resources or their habitat and actions by local, state, or federal agencies and private persons.

(3) To provide for greater certainty and predictability regarding the conservation of fish and wildlife resources and their habitat and regarding private and public activities potentially affecting those resources.

(b) With respect to the preparation of the habitat conservation plan, the Department of Fish and Game shall be the lead agency for wetland identification purposes and the State Coastal Conservancy shall be the lead agency for the purposes of identifying land use alternatives. Upon completion of the habitat conservation plan and on or before July 20, 1984, the Department of Fish and Game and the State Coastal Conservancy shall jointly forward it to the commission for approval. The commission shall approve the plan if it finds it raises no substantial issue as to conformity with the planning and management policies of this chapter. If the plan is approved by the commission, it may be incorporated into the county's local coastal program.

(c) All costs of preparation of the habitat conservation plan, including, but not limited to, additional necessary personnel temporarily appointed by the Department of Fish and Game and the

State Coastal Conservancy, shall be paid by the petitioner or petitioners. If additional personnel are necessary, the Department of Finance shall review the requests to ensure that the personnel required will be utilized to carry out only the purposes of this section. If the Department of Finance finds the additional personnel required will be utilized only to carry out the purposes of this section, the temporary appointment requests shall be processed and approved by the Department of Finance in an expedited fashion, in no event longer than 10 working days after the requests are made. Furthermore, these requests for temporary appointments shall be exempt from all state personnel hiring requirements and procedures, except for affirmative action requirements, for the review provided in this subdivision by the Department of Finance, and from any personnel hiring limitations during the time period set forth in this section for the preparation of the habitat conservation plan.

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 avoid undue delay in the preparation, certification, and implementation of the County of Orange's Local Coastal Program and to clarify any ambiguities over the land use conflicts in this area, it is necessary that this act take effect immediately.

CHAPTER 1204

An act to amend Sections 2356, 2402, 2410, 2411, 2412, 2417, 2419, and 2421 of, to add Section 2412.5 to, and to add Article 5 (commencing with Section 2430) to Chapter 2 of Title 9 of Part 4 of Division 3 of, the Civil Code, relating to durable powers of attorney.

[Became law without Governor's signature Filed with Secretary of State September 29, 1983]

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

SECTION 1. Section 2356 of the Civil Code is amended to read:

2356. (a) Unless the power of an agent is coupled with an interest in the subject of the agency, it is terminated by any of the following:

(1) Its revocation by the principal.

(2) The death of the principal.

(3) The incapacity of the principal to contract.

(b) Notwithstanding subdivision (a), any bona fide transaction entered into with such agent by any person acting without actual knowledge of such revocation, death, or incapacity shall be binding upon the principal, his or her heirs, devisees, legatees, and other

successors in interest.

(c) Nothing in this section shall affect the provisions of Section 1216.

(d) With respect to a power of attorney, the provisions of this section are subject to the provisions of Articles 3 (commencing with Section 2400) and 5 (commencing with Section 2430) of Chapter 2.

(e) With respect to a proxy given by a person to another person relating to the exercise of voting rights, to the extent the provisions of this section conflict with or contravene any other provisions of the statutes of California pertaining to the proxy, the latter provisions shall prevail.

SEC. 2. Section 2402 of the Civil Code is amended to read:

2402. (a) If, following execution of a durable power of attorney, a court of the principal's domicile appoints a conservator of the estate, guardian of the estate, or other fiduciary charged with the management of all of the principal's property or all of his or her property except specified exclusions, the attorney in fact is accountable to the fiduciary as well as to the principal. The fiduciary has the same power to revoke or amend the power of attorney that the principal would have had if he or she were not incapacitated; but, if a conservator is appointed by a court of this state, the conservator can revoke or amend the power of attorney only if the court in which the conservatorship proceeding is pending has first made an order authorizing or requiring the fiduciary to revoke or amend the durable power of attorney and the revocation or amendment is in accord with the order. This subdivision does not apply to a durable power of attorney to the extent that the durable power of attorney authorizes the attorney in fact to make health care decisions, as defined in Section 2430, for the principal.

(b) A principal may nominate, by a durable power of attorney, a conservator of the person or estate or both, or a guardian of the person or estate or both, for consideration by the court if protective proceedings for the principal's person or estate are thereafter commenced. If the protective proceedings are conservatorship proceedings in this state, the nomination shall have the effect provided in Section 1810 of the Probate Code, and the court shall give effect to the most recent writing executed in accordance with Section 1810 of the Probate Code, whether or not such writing is a durable power of attorney.

SEC. 3. Section 2410 of the Civil Code is amended to read:

2410. As used in this article:

(a) "Attorney in fact" means an attorney in fact designated in a power of attorney.

(b) "Durable power of attorney for health care" means a durable power of attorney to the extent that it authorizes an attorney in fact to make health care decisions, as defined in Section 2430, for the principal.

(c) "Power of attorney" means a written power of attorney, durable or otherwise, which designates for a natural person an

attorney in fact who was a resident of this state at the time the power of attorney was created or is a resident of this state at the time the petition is filed under this article. For the purposes of this article, a power of attorney does not include a proxy given by a person to another person with respect to the exercise of voting rights that is governed by any other statute of California.

(d) "Principal" means the natural person who has designated another as his or her attorney in fact in a power of attorney.

SEC. 4. Section 2411 of the Civil Code is amended to read:

2411. A petition may be filed under this article by any of the following:

(a) The attorney in fact.

(b) The principal.

(c) The spouse or any child of the principal.

(d) The conservator of the person or estate of the principal.

(e) Any person who would take property of the principal under the laws of intestate succession if the principal died at the time the petition is filed, whether or not the principal has a will.

(f) The court investigator, referred to in Section 1454 of the Probate Code, of the county where the power of attorney was executed or where the principal resides.

(g) The public guardian of the county where the power of attorney was executed or where the principal resides.

(h) A treating health care provider with respect to a durable power of attorney for health care.

(i) A parent of the principal with respect to a durable power of attorney for health care.

SEC. 5. Section 2412 of the Civil Code is amended to read:

2412. Except as provided in Section 2412.5, a petition may be filed under this article for any one or more of the following purposes:

(a) Determining whether the power of attorney is in effect or has terminated.

(b) Passing on the acts or proposed acts of the attorney in fact.

(c) Compelling the attorney in fact to submit his or her accounts or report his or her acts as attorney in fact to the principal, the spouse of the principal, the conservator of the person or the estate of the principal, or to such other person as the court in its discretion may require, if the attorney in fact has failed to submit an accounting and report within 60 days after written request from the person filing the petition.

(d) Declaring that the power of attorney is terminated upon a determination by the court of all of the following:

(1) The attorney in fact has violated or is unfit to perform the fiduciary duties under the power of attorney.

(2) At the time of the determination by the court, the principal lacks the capacity to give or to revoke a power of attorney.

(3) The termination of the power of attorney is in the best interests of the principal or the principal's estate.

SEC. 6. Section 2412.5 is added to the Civil Code, to read:

2412.5. With respect to a durable power of attorney for health care, a petition may be filed under this article for any one or more of the following purposes:

(a) Determining whether the durable power of attorney for health care is in effect or has terminated.

(b) Determining whether the acts or proposed acts of the attorney in fact are consistent with the desires of the principal as expressed in the durable power of attorney or otherwise made known to the court or, where the desires of the principal are unknown or unclear, whether the acts or proposed acts of the attorney in fact are in the best interests of the principal.

(c) Compelling the attorney in fact to report his or her acts as attorney in fact to the principal, the spouse of the principal, the conservator of the person of the principal, or to any other person as the court in its discretion may require, if the attorney in fact has failed to submit such a report within 10 days after written request from the person filing the petition.

(d) Declaring that the durable power of attorney for health care is terminated upon a determination by the court that the attorney in fact has made a health care decision for the principal that authorized anything illegal or upon a determination by the court of both of the following:

(1) The attorney in fact has violated, has failed to perform, or is unfit to perform, the duty under the durable power of attorney for health care to act consistent with the desires of the principal or, where the desires of the principal are unknown or unclear, is acting (by action or inaction) in a manner that is clearly contrary to the best interests of the principal.

(2) At the time of the determination by the court, the principal lacks the capacity to give or to revoke a durable power of attorney for health care.

SEC. 7. Section 2417 of the Civil Code is amended to read:

2417. (a) Upon the filing of a petition under this article, the clerk shall set the petition for hearing.

(b) At least 30 days before the time set for hearing, the petitioner shall serve notice of time and place of the hearing, together with a copy of the petition, on all of the following:

(1) The attorney in fact if not the petitioner.

(2) The principal if not the petitioner.

(3) Any other persons the court in its discretion requires.

(c) Service shall be made by mailing to the last known address of the person required to be served unless the court in its discretion requires that notice be served in some other manner. Personal delivery is the equivalent of mailing.

(d) Proof of compliance with subdivisions (b) and (c) shall be made at or before the hearing. If it appears to the satisfaction of the court that the notice has been given as required, the court shall so find in its order, and the order, when it becomes final, is conclusive on all persons.

(e) Proceedings under this article shall be governed, whenever possible, by the provisions of this article, and where the provisions of this article do not appear applicable, the provisions of Division 3 (commencing with Section 300) of the Probate Code shall apply.

(f) The court for good cause may shorten the time required for the performance of any act required by this section.

(g) In a proceeding under this article commenced by the filing of a petition by a person other than the attorney in fact, the court may in its discretion award reasonable attorney's fees to:

(1) The attorney in fact if the court determines that the proceeding was commenced without any reasonable cause.

(2) The person commencing the proceeding if the court determines that the attorney in fact has clearly violated the fiduciary duties under the power of attorney or has failed without any reasonable cause or justification to submit accounts or report acts to the principal or conservator of the estate or of the person, as the case may be, after written request from the principal or conservator.

(h) With respect to a durable power of attorney for health care, the court in its discretion, upon a showing of good cause, may issue a temporary order prescribing the health care of the principal until the disposition of the petition filed under Section 2412.5. If a durable power of attorney for health care is in effect and a conservator (including a temporary conservator) of the person is appointed for the principal, the court that appoints the conservator in its discretion, upon a showing of good cause, may issue a temporary order prescribing the health care of the principal, such order to continue in effect for such time as is ordered by the court but in no case longer than the time necessary to permit the filing and determination of a petition filed under Section 2412.5.

SEC. 8. Section 2419 of the Civil Code is amended to read:

2419. An appeal may be taken from any of the following:

(a) Any final order or decree made pursuant to subdivision (a), (b), or (d) of Section 2412 or subdivision (a), (b), or (d) of Section 2412.5.

(b) An order dismissing the petition or denying a motion to dismiss under Section 2416.

SEC. 9. Section 2421 of the Civil Code is amended to read:

2421. (a) Except as provided in subdivisions (b), (c), and (d), a power of attorney may expressly eliminate the authority of any person listed in Section 2411 to petition the court under this article for any one or more of the purposes enumerated in Section 2412 or 2412.5 if both of the following requirements are met:

(1) The power of attorney is executed by the principal at a time when the principal has the advice of a lawyer licensed to practice law in the state where the power of attorney is executed.

(2) The approval of the lawyer described in paragraph (1) of the power of attorney is included as a part of the instrument that constitutes the power of attorney.

(b) Notwithstanding any provision of the power of attorney,

except as provided in subdivision (c), the conservator of the estate of the principal may petition the court under this article for any one or more of the purposes enumerated in Section 2412.

(c) Notwithstanding any provision of the power of attorney, in the case of a durable power of attorney for health care, the conservator of the person of the principal may petition the court under this article for any of the purposes enumerated in subdivisions (a), (c), and (d) of Section 2412.5.

(d) Notwithstanding any provision of the power of attorney, in the case of a durable power of attorney for health care, the attorney in fact may petition the court under this article for any of the purposes enumerated in subdivisions (a) and (b) of Section 2412.5.

SEC. 10. Article 5 (commencing with Section 2430) is added to Chapter 2 of Title 9 of Part 4 of Division 3 of the Civil Code, to read:

Article 5. Durable Power of Attorney for Health Care

2430. As used in this article:

(a) "Durable power of attorney for health care" means a durable power of attorney to the extent that it authorizes an attorney in fact to make health care decisions for the principal.

(b) "Health care" means any care, treatment, service, or procedure to maintain, diagnose, or treat an individual's physical or mental condition.

(c) "Health care decision" means consent, refusal of consent, or withdrawal of consent to health care.

(d) "Health care provider" means a person who is licensed, certified, or otherwise authorized or permitted by the law of this state to administer health care in the ordinary course of business or practice of a profession.

(e) "Person" includes an individual, corporation, partnership, association, the state, a city, county, city and county, or other public entity or governmental subdivision or agency, or any other legal entity.

(f) "Community care facility" means a community care facility as defined in Section 1502 of the Health and Safety Code.

2431. (a) A durable power of attorney executed after December 31, 1983, is effective to authorize the attorney in fact to make health care decisions for the principal only if the power of attorney complies with this article.

(b) A durable power of attorney executed before January 1, 1984, that specifically authorizes the attorney in fact to make decisions relating to the medical or health care of the principal shall be deemed to be valid under this article after January 1, 1984, notwithstanding that it fails to comply with the requirement of paragraph (2) of subdivision (a) of Section 2432 or subdivision (c) of Section 2433; but, to the extent that the durable power of attorney authorizes the attorney in fact to make health care decisions for the principal, the durable power of attorney is subject to all tne

provisions of this article and to Article 4 (commencing with Section 2410).

(c) Nothing in this article affects the validity of a decision made under a durable power of attorney before January 1, 1984.

2432. (a) An attorney in fact under a durable power of attorney may not make health care decisions unless both of the following requirements are satisfied:

(1) The durable power of attorney specifically authorizes the attorney in fact to make health care decisions.

(2) The durable power of attorney contains the date of its execution and is witnessed by one of the following methods:

(A) Be signed by at least two persons each of whom witnessed either the signing of the instrument by the principal or the principal's acknowledgment of the signature or of the instrument, each witness making the following declaration in substance: "I declare under penalty of perjury under the laws of California that the principal is personally known to me, that the principal signed or acknowledged this durable power of attorney in my presence, that the principal appears to be of sound mind and under no duress, fraud, or undue influence, that I am not the person appointed as attorney in fact by this document, and that I am not a health care provider, an employee of a health care provider, the operator of a community care facility, nor an employee of an operator of a community care facility." In addition, the declaration of at least one of the witnesses must include the following: "I am not related to the principal by blood, marriage, or adoption, and to the best of my knowledge I am not entitled to any part of the estate of the principal upon the death of the principal under a will now existing or by operation of law."

(B) Be acknowledged before a notary public at any place within this state, the notary public certifying to the substance of the following:

State of California }
County of _____ } ss.

On this _____ day of _____, in the year _____, before me,

_____,

(here insert name of notary public)

personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to this instrument, and acknowledged that he or she executed it. I declare under penalty of perjury that the person whose name is subscribed to this instrument appears to be of sound mind and under no duress, fraud, or undue influence.

NOTARY SEAL _____

(Signature of Notary Public)

(b) Neither the treating health care provider nor an employee of the treating health care provider, nor an operator of a community

care facility nor an employee of an operator of a community care facility, may be designated as the attorney in fact to make health care decisions under a durable power of attorney. A health care provider or employee of a health care provider may not act as an attorney in fact to make health care decisions if the health care provider becomes the principal's treating health care provider.

(c) A conservator may not be designated as the attorney in fact to make health care decisions under a durable power of attorney for health care executed by a person who is a conservatee under the Lanterman-Petris-Short Act, Part 1 (commencing with Section 5000) of Division 5 of the Welfare and Institutions Code, unless (1) the power of attorney is otherwise valid, (2) the conservatee is represented by legal counsel, and (3) the lawyer representing the conservatee signs a certificate stating: "I have advised my client concerning his or her rights in connection with this matter and the consequences of signing or not signing this durable power of attorney and my client, after being so advised, has executed this durable power of attorney."

(d) None of the following may be used as a witness under subdivision (a):

(1) A health care provider.

(2) An employee of a health care provider.

(3) The attorney in fact.

(4) The operator of a community care facility.

(5) An employee of an operator of a community care facililty.

(e) At least one of the persons used as a witness under subdivision (a) shall be a person who is not one of the following:

(1) A relative of the principal by blood, marriage, or adoption.

(2) A person who would be entitled to any portion of the estate of the principal upon his or her death under any will or codicil thereto of the principal existing at the time of execution of the durable power of attorney or by operation of law then existing.

(f) A durable power of attorney for health care is not effective if the principal is a patient in a skilled nursing facility as defined in subdivision (c) of Section 1250 of the Health and Safety Code at the time of its execution unless one of the witnesses is a patient advocate or ombudsman as may be designated by the State Department of Aging for this purpose pursuant to any other applicable provision of law. The patient advocate or ombudsman shall include in the declaration required by subdivision (a) (2) (A) a declaration that he or she is serving as a witness as required by this subdivision. It is the intent of this subdivision to recognize that some patients in skilled nursing facilities are insulated from a voluntary decisionmaking role, by virtue of the custodial nature of their care, so as to require special assurance that they are capable of willfully and voluntarily executing a durable power of attorney for health care.

2433. (a) A printed form of a durable power of attorney for health care sold in this state for use by a person who does not have the advice of legal counsel shall provide no other authority than the

authority to make health care decisions on behalf of the principal and shall include the following notice in 10-point boldface type:

WARNING TO PERSON EXECUTING THIS DOCUMENT

This is an important legal document. It creates a durable power of attorney for health care. Before executing this document, you should know these important facts:

1. This document gives the person you designate as your attorney in fact the power to make health care decisions for you, subject to any limitations or statement of your desires that you include in this document. The power to make health care decisions for you may include consent, refusal of consent, or withdrawal of consent to any care, treatment, service, or procedure to maintain, diagnose, or treat a physical or mental condition. You may state in this document any types of treatment or placements that you do not desire.

2. The person you designate in this document has a duty to act consistent with your desires as stated in this document or otherwise made known or, if your desires are unknown, to act in your best interests.

3. Except as you otherwise specify in this document, the power of the person you designate to make health care decisions for you may include the power to consent to your doctor not giving treatment or stopping treatment which would keep you alive.

4. Unless you specify a shorter period in this document, this power will exist for seven years from the date you execute this document and, if you are unable to make health care decisions for yourself at the time when this seven-year period ends, this power will continue to exist until the time when you become able to make health care decisions for yourself.

5. Notwithstanding this document, you have the right to make medical and other health care decisions for yourself so long as you can give informed consent with respect to the particular decision. In addition, no treatment may be given to you over your objection, and health care necessary to keep you alive may not be stopped if you object.

6. You have the right to revoke the appointment of the person designated in this document by notifying that person of the revocation orally or in writing.

7. You have the right to revoke the authority granted to the person designated in this document to make health care decisions for you by notifying the treating physician, hospital, or other health care provider orally or in writing.

8. The person designated in this document to make health care decisions for you has the right to examine your medical records and to consent to their disclosure unless you limit this right in this document.

9. If there is anything in this document that you do not understand, you should ask a lawyer to explain it to you.

(b) The printed form described in subdivision (a) shall also include the following notice: "This power of attorney will not be valid for making health care decisions unless it is either (1) signed by two qualified witnesses who are personally known to you and who are present when you sign or acknowledge your signature or (2) acknowledged before a notary public in California."

(c) A durable power of attorney prepared in this state that permits the attorney in fact to make health care decisions and that is not a printed form shall include one of the following:

(1) The substance of the statements provided for in subdivision (a) in capital letters.

(2) A certificate of a lawyer representing the principal stating: "I have advised my client concerning his or her rights in connection with this durable power of attorney and the law applicable thereto, including, but not limited to, the matters listed in subdivision (a) of Section 2433 of the Civil Code, and the consequences of signing or not signing this durable power of attorney and my client, after being so advised, has executed this durable power of attorney."

2434. (a) Unless the durable power of attorney provides otherwise, the attorney in fact designated in a durable power of attorney for health care who is known to the health care provider to be available and willing to make health care decisions has priority over any other person to act for the principal in all matters of health care decisions, but the attorney in fact does not have authority to make a particular health care decision if the principal is able to give informed consent with respect to that decision.

(b) Subject to any limitations in the durable power of attorney, the attorney in fact designated in a durable power of attorney for health care may make health care decisions for the principal, before or after the death of the principal, to the same extent as the principal could make health care decisions for himself or herself if the principal had the capacity to do so, including a disposition under the Uniform Anatomical Gift Act, Chapter 3.5 (commencing with Section 7150.5) of Part 1 of Division 7 of the Health and Safety Code. In exercising the authority under the durable power of attorney for health care, the attorney in fact has a duty to act consistent with the desires of the principal as expressed in the durable power of attorney or otherwise made known to the attorney in fact at any time or, if the principal's desires are unknown, to act in the best interests of the principal.

(c) Nothing in this article affects any right the person designated as attorney in fact may have, apart from the durable power of attorney for health care, to make or participate in the making of health care decisions on behalf of the principal.

2435. A durable power of attorney may not authorize the attorney in fact to consent to any of the following on behalf of the principal:

(a) Commitment to or placement in a mental health treatment facility.

(b) Convulsive treatment (as defined in Section 5325 of the Welfare and Institutions Code).

(c) Psychosurgery (as defined in Section 5325 of the Welfare and Institutions Code).

(d) Sterilization.

(e) Abortion.

2436. Except to the extent the right is limited by the durable power of attorney, an attorney in fact designated to make health care decisions under a durable power of attorney has the same right as the principal to receive information regarding the proposed health care, to receive and review medical records, and to consent to the disclosure of medical records.

2436.5. Unless a shorter period is provided in the durable power of attorney for health care, a durable power of attorney for health care executed after January 1, 1984, expires seven years after the date of its execution unless at the end of the seven-year period the principal lacks the capacity to make health care decisions for himself or herself, in which case the durable power of attorney for health care continues in effect until the time when the principal regains the capacity to make health care decisions for himself or herself.

2437. (a) At any time while the principal has the capacity to give a durable power of attorney for health care, the principal may do any of the following:

(1) Revoke the appointment of the attorney in fact under the durable power of attorney for health care by notifying the attorney in fact orally or in writing.

(2) Revoke the authority granted to the attorney in fact to make health care decisions by notifying the health care provider orally or in writing.

(b) If the principal notifies the health care provider orally or in writing that the authority granted to the attorney in fact to make health care decisions is revoked, the health care provider shall make the notification a part of the principal's medical records and shall make a reasonable effort to notify the attorney in fact of the revocation.

(c) It is presumed that the principal has the capacity to revoke a durable power of attorney for health care. This presumption is a presumption affecting the burden of proof.

(d) Unless it provides otherwise, a valid durable power of attorney for health care revokes any prior durable power of attorney for health care.

(e) Unless the durable power of attorney expressly provides otherwise, if after executing a durable power of attorney for health care the principal's marriage is dissolved or annulled, the dissolution or annulment revokes any designation of the former spouse as an attorney in fact to make health care decisions for the principal. If any designation is revoked solely by this subdivision, it is revived by the principal's remarriage to the former spouse.

2438. (a) Subject to any limitations stated in the durable power

of attorney and to subdivision (b) and to Sections 2435, 2440, 2441, 2442, and 2443, a health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action except to the same extent as would be the case if the principal, having had the capacity to give informed consent, had made the health care decision on his or her own behalf under like circumstances, if the health care provider relies on a health care decision and both of the following requirements are satisfied:

(1) The decision is made by an attorney in fact who the health care provider believes in good faith is authorized under this article to make the decision.

(2) The health care provider believes in good faith that the decision is not inconsistent with the desires of the principal as expressed in the durable power of attorney or otherwise made known to the health care provider, and, if the decision is to withhold or withdraw health care necessary to keep the principal alive, the health care provider has made a good faith effort to determine the desires of the principal to the extent that the principal is able to convey those desires to the health care provider and the results of the effort are made a part of the principal's medical records.

(b) Nothing in this article authorizes a health care provider to do anything illegal.

(c) Notwithstanding the health care decision of the attorney in fact designated by a durable power of attorney for health care, the health care provider is not subject to criminal prosecution, civil liability, or professional disciplinary action for failing to withdraw health care necessary to keep the principal alive.

2439. (a) Subject to Section 2434, nothing in this article affects any right a person may have to make health care decisions on behalf of another.

(b) This article does not affect the law governing health care treatment in an emergency.

2440. Nothing in this article authorizes an attorney in fact to consent to health care, or to consent to the withholding or withdrawal of health care necessary to keep the principal alive, if the principal objects to the health care or to the withholding or withdrawal of the health care. In such a case, the case is governed by the law that would apply if there were no durable power of attorney for heath care.

2441. No health care provider, health care service plan, insurer issuing disability insurance, self-insured employee welfare plan, or nonprofit hospital plan or similar insurance plan, may condition admission to a facility, or the providing of treatment, or insurance, on the requirement that a patient execute a durable power of attorney for health care.

2442. Any person who, except where justified or excused by law, alters or forges a durable power of attorney for health care of another, or willfully conceals or withholds personal knowledge of a revocation as provided under Section 2437, with the intent to cause

a withholding or withdrawal of health care necessary to keep the principal alive contrary to the desires of the principal, and thereby, because of such act, directly causes health care necessary to keep the principal alive to be withheld or withdrawn and the death of the principal thereby to be hastened, is subject to prosecution for unlawful homicide as provided in Chapter 1 (commencing with Section 187) of Title 8 of Part 1 of the Penal Code.

2443. Nothing in this article shall be construed to condone, authorize, or approve mercy killing, or to permit any affirmative or deliberate act or omission to end life other than the withholding or withdrawal of health care pursuant to a durable power of attorney for health care so as to permit the natural process of dying. In making health care decisions under a durable power of attorney for health care, an attempted suicide by the principal shall not be construed to indicate a desire of the principal that health care treatment be restricted or inhibited.

SEC. 11. No appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution or Section 2231 or 2234 of the Revenue and Taxation Code because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

CHAPTER 1205

An act to amend Section 8690.4 of the Government Code, relating to natural disaster relief, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 29, 1983.]

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

SECTION 1. Section 8690.4 of the Government Code is amended to read:

8690.4. The Controller shall establish the following three special accounts in the Natural Disaster Assistance Fund:

(a) The Public Facilities Account, into which shall be paid all resources of the appropriation made by Section 4 of Chapter 624 of the Statutes of 1973, any money hereafter appropriated by the Legislature for allocation for public facilities projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account, including deferred payments with charges, pursuant to Section 8686.8.

(b) The Street and Highway Account, into which shall be paid all resources transferred from the Street and Highway Disaster Fund, any money received from the federal government as reimbursement to any city or county for expenditures from funds allocated, transferred or expended pursuant to this chapter for a street and highway project, any money hereafter appropriated by the Legislature for allocation for street and highway projects, and any income from investment of moneys in the account and payments by local agencies in reimbursement of moneys disbursed from the account including deferred payments with charges, pursuant to Section 8686.8.

(c) The 1983 Natural Disasters Account, into which shall be paid all moneys appropriated by the Legislature for allocation to those who have incurred losses or expenses resulting from the Coalinga earthquake of May 2, 1983, as follows:

(1) To reimburse local agencies for personnel overtime costs and for supplies used for disaster assistance.

(2) To provide for the repair, cleanup, and reconstruction of damaged public facilities.

(3) To provide state matching funds for federal assistance.

(4) To provide other assistance as the Director of the Office of Emergency Services deems necessary to carry out the provisions of this subdivision

SEC. 2. Notwithstanding the provisions of Sections 50660 through 50668 of the Health and Safety Code, funds in the Housing Rehabilitation Loan Fund may be used for the purpose of reconstructing, rather than merely rehabilitating, owner-occupied single family residences which were condemned as a result of damage caused by the earthquakes in the City of Coalinga.

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. 3. The sum of five million dollars ($5,000,000) is hereby appropriated from the General Fund to the 1983 Natural Disasters Account in the Natural Disaster Assistance Fund for allocation by the Director of the Office of Emergency Services pursuant to Section 8690.4 of the Government Code.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Areas of the City of Coalinga were damaged by the May 1983 earthquake and are urgently in need of aid and assistance which can be provided through the State's Deferred Payment Rehabilitation Program. In order to exempt the use of funds to finance the reconstruction of demolished housing from an existing limitation as soon as possible, and in order to enable the state to utilize these funds to provide immediate aid and assistance, it is necessary that this act take effect immediately.

CHAPTER 1206

An act to amend Section 85023 of the Education Code, relating to community colleges, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State September 29, 1983.]

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

SECTION 1. Section 85023 of the Education Code is amended to read:

85023. (a) On or before the first day of July in each year, each community college district shall file a tentative budget with the county superintendent of schools.

(1) The budget shall indicate the date, time, and location at which the governing board of the district will hold the public hearing required pursuant to Section 85003.

(2) If the governing board of the district does not want all or a portion of the property tax requirement levied for the purpose of making payments for the interest and principal on outstanding general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978, the budget shall include a statement of the amount or portion for which a levy shall not be made.

(3) For the 1981–82 fiscal year only, the information specified in paragraphs (1) and (2) may be filed separately, but no later than August 1, 1981.

(b) On or before August 1, in each year, the county superintendent of schools:

(1) Shall examine and may make technical corrections to the tentative budget, and indicate changes desirable or necessary to determine the tax requirement.

(2) Shall make any recommendations necessary to ensure that the proposed expenditures do not exceed the anticipated revenues and that the anticipated revenues are realistic, and shall transmit to the governing board of the community college district a written explanation of the reasons for such changes.

(3) May make written recommendations as to anticipated revenues at any time prior to final adoption of the budget by the governing board of the district.

(4) May accept changes in the date, time, or location of the public hearing pursuant to Section 85003 and changes in the statement required by paragraph (2) of subdivision (a) of this section of the amount or portion for which a property tax levy shall not be made.

(c) The county superintendent or the county auditor shall compute the actual amounts to be levied on the property tax rolls of the district for purposes which exceed apportionments to the district pursuant to Sections 95 to 100, inclusive, of the Revenue and Taxation

Code. Each community college district shall provide all data needed by the county superintendent or the county auditor to compute the amounts. On or before August 15, the county superintendent shall transmit the amounts so computed to the county auditor who shall compute the tax rates necessary to produce the amounts. On or before September 1, the county auditor shall submit the rate so computed to the board of supervisors for adoption.

(d) On or before the seventh day of September the governing board of each community college district shall adopt a final budget including any tax requirements computed pursuant to subdivision (c) as adjusted by paragraph (2) of subdivision (a) and shall file the budget with the county superintendent of schools.

(e) On or before the 15th day of September, the county superintendent shall approve the adopted budget for each community college district as officially adopted and submitted by its governing board, and shall file one copy of the adopted budget of each community college district with the county board of supervisors, one copy with the county auditor, and two copies with the office of the Chancellor of the California Community Colleges.

(f) Notwithstanding subdivision (d), for the 1983–84 fiscal year only, the governing board of each community college district may adopt a final budget on or before October 7, 1983.

Notwithstanding subdivision (e), for the 1983–84 fiscal year only, the county superintendent may approve the adopted budget for each community college district on or before October 15, 1983.

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 permit the orderly transition of recently enacted legislation relating to community college finance, and to provide community college districts sufficient time to plan and adopt new budgets for the 1983–84 fiscal year as soon as possible, it is necessary that this act take effect immediately.

CHAPTER 1207

An act to amend Sections 437.11 and 1255 of the Health and Safety Code, to amend Sections 5458, 5606, and 5705.1 of and to amend, repeal, and add Section 5705.2 of, the Welfare and Institutions Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 437.11 of the Health and Safety Code is amended to read:

437.11. (a) The office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of exemption for those projects which were not previously subject to review under Section 437.7 prior to the effective date of this section where the applicant has shown and the office director has found all of the following:

(1) The applicant has, prior to the effective date of this section, committed or incurred a financial obligation, including any obligation payable by force account, which is certified by a licensed architect or engineer to be 10 percent of the cost of the total project, or seventy-five thousand dollars ($75,000), whichever is less.

(2) The project cannot be terminated without substantial economic loss to the applicant.

(3) Except with respect to projects set forth in subdivision (d) of Section 437.10, the project was commenced prior to the effective date of this section and is being diligently pursued to completion.

(4) The applicant has filed a notice of such project with the office on forms supplied by the office within 60 days of the effective date of this section.

For the purposes of this subdivision, "project" shall mean any project set forth in Section 437.10, and the term "financial obligation" shall include cost factors set forth in the definition of "capital expenditure" in Section 437.10.

Within 120 days of the effective date of this section, the office shall determine in public hearing which applications are entitled to an exemption under this subdivision.

(b) In addition, the office shall exempt from the provisions of Sections 438 to 438.13, inclusive, and shall issue a certificate of need for those projects where the applicant has shown and the office director has found one of the following:

(1) The project is necessary solely to replace health care services that are no longer available at the facility because of a disaster or other emergency.

(2) The project is solely for the purpose of complying with requirements of law or regulations.

(3) The project was the subject of an application submitted to an area health planning agency prior to the effective date of this section. Such applications shall be processed and decided in the manner prescribed by this part as it existed immediately prior to the operative date of this section, except that any petition for appeal of a decision or lack of decision of such an area health planning agency rendered after the effective date of this section shall be made directly to the Advisory Health Council.

(4) The project is to add not more than 10 percent of licensed bed capacity or 10 beds, whichever is less, to an existing general acute

care hospital, an existing acute psychiatric hospital, an existing special hospital, an existing general acute care/rehabilitating hospital, or an existing chemical dependency recovery hospital, where the applicant has shown and the office director has found that:

(A) The applicant hospital has not been granted a certificate of exemption pursuant to this provision or pursuant to Section 437.112, as Section 437.112 existed on January 1, 1982, within the last preceding 24 months.

(B) The applicant hospital has had an occupancy rate for the classification of beds to be added, and for the facility as a whole, for the preceding 12-month period, of not less than 85 percent.

(C) The facility is accessible to persons for whom the cost of care is reimbursed under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code. In the case of an acute psychiatric hospital, the showing required by this subparagraph shall be limited to those categories of patients for whom acute psychiatric hospitals are eligible to receive reimbursement under Chapter 7 (commencing with Section 1400) of Part 3 of Division 9 of the Welfare and Institutions Code.

(5) The project is to add not more than five beds to an existing skilled nursing facility which is operated as a distinct part of a primary health service hospital, as defined in Section 1339.9 that participates in Medi-Cal programs, provided that all of the following conditions exist:

(A) At the time of the application, the Statewide Health Facility and Services Plan indicates a need for the proposed number of beds taking into account the number of approved beds in the health facilities planning area in which the project is located including beds approved pursuant to this subdivision.

(B) The applicant skilled nursing facility has had at least a 95 percent occupancy rate for existing beds for the 12 months preceding the submission of an application.

(C) The applicant facility has not been issued within the 12 months preceding application a citation for a class A violation or more than one class B violation, as defined at Section 1424, which is one of the following:

(i) Uncontested.

(ii) Contested, but not adjudicated.

(iii) Contested, but sustained upon adjudication.

In determining the current number of approved beds in the health facilities planning area in which the project is located, the office shall count the number of beds for which applications for a certificate of need have been deemed complete pursuant to Section 438.2, before the effective date of the amendments to this section enacted by the Statutes of 1983.

Such a project shall not require a capital expenditure which exceeds ten thousand dollars ($10,000), and only one such project may be approved for a facility in a 12-month period. However, no facility shall receive approval pursuant to this section for more than

two projects. The office shall annually adjust this capital expenditure threshold to reflect changes in the cost of living as determined by the Department of Finance, using 1981 as the base year.

Any certificate issued for such projects shall expire if the applicant does not complete the project within 12 months after issuance unless the office, for good cause shown, extends the certificate.

(c) A certificate of exemption issued pursuant to this section or Section 1268 shall for all purposes have the same effect as a certificate of need issued pursuant to this part.

SEC. 1.5. Section 1255 of the Health and Safety Code is amended to read:

1255. In addition to the basic services offered under the license, a general acute care hospital may be approved in accordance with subdivision (c) of Section 1277 to offer special services including, but not limited to, the following:

(a) Radiation therapy department.
(b) Burn center.
(c) Emergency center.
(d) Hemodialysis center (or unit).
(e) Psychiatric.
(f) Intensive-care newborn nursery.
(g) Cardiac surgery.
(h) Cardiac catheterization laboratory.
(i) Renal transplant.
(j) Such other special services as the department may prescribe by regulation.

A general acute care hospital which exclusively provides acute medical rehabilitation center services may be approved in accordance with subdivision (b) of Section 1277 to offer special services not requiring surgical facilities.

The state department shall adopt standards for special services and such other regulations as may be necessary to implement this section. For cardiac catheterization laboratory service, the state department shall, at a minimum, adopt standards and regulations which specify that only diagnostic services, and which diagnostic services, may be offered by an acute care hospital or a multispecialty clinic as defined in subdivision (*l*) of Section 1206 which is approved to provide cardiac catheterization laboratory service but is not also approved to provide cardiac surgery service, together with the conditions under which such cardiac catheterization laboratory service may be offered.

A cardiac catheterization laboratory service shall be located in a general acute care hospital which is either licensed to perform cardiovascular procedures requiring extracorporeal coronary artery bypass, which meets all of the applicable licensing requirements relating to staff, equipment, and space for service; or shall, at a minimum, have a licensed intensive care service, coronary care service and maintain a written agreement for the transfer of patients to a general acute care hospital which is licensed for cardiac surgery

or shall be located in a multispecialty clinic as defined in subdivision (*l*) of Section 1206. The transfer agreement shall include protocols which will minimize the need for duplicative cardiac catheterizations at the hospital in which the cardiac surgery is to be performed.

SEC. 1.7. Section 5458 of the Welfare and Institutions Code is amended to read:

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

(a) A program for 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 program shall be on reduction of the crisis, on stabilization, and on 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, and development of a support system, including income and treatment referrals. This program 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.

Respite care services, as defined in Chapter 5 (commencing with Section 5800), may be provided as a component of this program.

Rates established for this program shall differentiate short-term crisis residential treatment from community residential care. Further, rates established for this program shall differentiate two distinct levels of care. The first level of care shall include 24-hour nonhospital acute care programs that provide alternatives to hospital care and that generally utilize a length of stay of less than 14 days. The second level of care shall include crisis residential care programs that generally utilize a length of stay of less than 30 days. In developing the 125 percent limitation pursuant to Section 5705.1, the director shall separately calculate the statewide weighted average for each of these levels.

The rates established for these programs shall be commensurate with standards that are consistent with the requirements of Chapter 5 (commencing with Section 5450) to be developed by the State Department of Mental Health.

(b) A long-term residential treatment program, with a full day treatment component as a part of the program, for persons who may require intensive support for as long as two or three years. This

program 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 are to 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 is to serve those who are referred to, and maintained in, state hospitals or nursing homes because they require long-term, intensive support. This program is to go beyond maintenance to provide an active rehabilitation focus for these individuals.

The services in this program 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.

Rates established for this program by the Director of Mental Health pursuant to Section 5705.1 shall reflect the broad array of mandated services that are not required in other community care facilities.

(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. This program may employ a variety of staffing patterns and is 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 in this program 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.

Rates established for this program by the Director of Mental Health pursuant to Section 5705.1 shall differentiate between programs which include 24-hour programming and those that do not include 24-hour programming.

(d) A program for semisupervised, independent, but structured living arrangement for persons who do not need the intensive support of the other system programs, but who, without some support and structure, are at risk to return to a condition requiring

hospitalization. The individual apartments or houses are to be shared by three to five persons. These 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 program 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 are to be as normative as the general living arrangements in the communities in which they are developed.

Rates established for this program by the Director of Mental Health pursuant to Section 5705.1 shall differentiate two levels of care. Rates for semisupervised living arrangements shall reflect a higher degree of staff supervision than the degree of supervision required for independent living arrangements.

(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 programs. This may require the relocation of such services or the addition of staff.

Community vocational training programs may be provided as a component of this program. The Director of Mental Health, pursuant to Section 5705.1, shall designate a rate for community vocational training programs which shall reflect the intensive staffing of programs in which clients participate in supervised work-training crews.

(f) The program for socialization centers shall be designed to serve a broad range of clients, including those in the system programs, when appropriate, as well as persons living in the community in general. This program 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 in this program 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 program 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 program 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 focus on the development of family and other personal and community supports, rather than exclusively on the individual. The goal of the program 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 to programs 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 program 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.

SEC. 1.9. Section 5606 of the Welfare and Institutions Code is amended to read:

5606. The local mental health advisory board shall:

(a) Review and evaluate the community's mental health needs, services, facilities, and special problems.

(b) Review the county Short-Doyle plan or contract.

(c) Advise the governing body and the local mental health director as to any aspect of the local mental health program.

(d) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process as specified in Section 5651.

(e) Submit an annual report to the governing body.

(f) Make recommendations regarding the appointment of a local director of mental health services.

SEC. 2. Section 5705.1 of the Welfare and Institutions Code is amended to read:

5705.1. (a) The Director of Mental Health shall establish, by regulation, rates and methods of reimbursement based on provider-specific costs for local mental health services specified in the approved county Short-Doyle plans.

(b) In establishing rates, no rate shall exceed the lower of each individual provider's actual cost or 125 percent of the statewide weighted average of the cost of services as reflected in the most recently completed cost reports. This shall not prohibit the adjustment of the rates for cost-of-living increases appropriated by the Legislature. This subdivision shall not apply to prepaid health plans or in those cases where the county and the state or the county and the provider have entered into a negotiated net amount contract in accordance with Section 5705.2.

(c) The Director of Mental Health, subject to the availability of funds, may approve a waiver of the 125 percent limitation set forth in subdivision (b) requested by the board of supervisors of a county if the county demonstrates that the imposition of the 125 percent limitation will result in a substantial inability to provide mental health services. The Department shall report annually to the Legislature as to the factors justifying waivers granted by it.

(d) The provisions of subdivision (b) shall not apply to consolidated mental health programs established in accordance with Article 5 (commencing with Section 14660) of Chapter 8.8 of Division 9.

(e) Notwithstanding the provisions of this section, in the event that a health facility has entered into a negotiated rate agreement pursuant to Article 2.6 (commencing with Section 14081) of Chapter 7 of Part 4 of Division 9, the facility's rates shall be governed by such agreement.

(f) The State Department of Mental Health shall promulgate regulations implementing the provisions of this article. The Director of the State Department of Mental Health shall adopt all regulations

pursuant to subdivision (a) as emergency regulations in accordance with the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of the regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. These regulations shall not be subject to the review and approval of the Office of Administrative Law; shall not be subject to approval by the California Conference of Local Mental Health Directors; shall not be subject to automatic repeal until 180 days after the regulations take effect; and shall become effective immediately upon filing with the Secretary of State.

(g) Notwithstanding any other provision of law, the department may, in fiscal year 1982–83, make monthly payments to the counties for services specified in the approved county Short-Doyle plan. However, these payments shall be adjusted at the end of the fiscal year on the basis of year-end cost reports to reflect the amount reimbursable pursuant to this section.

SEC. 3. Section 5705.2 of the Welfare and Institutions Code is amended to read:

5705.2. (a) It is the intent of the Legislature that the use of negotiated net amounts or rates, as provided in subdivision (b), be given preference in contracts for services under this division.

(b) Negotiated net amounts or rates may be used as the cost of services only in accordance with the following provisions:

(1) A negotiated net amount shall be determined by calculating the total budget for services for a program or a component of a program, less the amount of projected revenue from nongovernment, patient-related funds. This net amount shall be negotiated between the provider of services and the county mental health program, and may be used by providers in contracts with the county. The negotiated net amount shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the net amount. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date. Should the negotiated net amount be disapproved after the commencement date of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705.1. Once the negotiated net amount is approved by the State Department of Mental Health, all participating government funding sources shall be bound to that amount as the cost of providing all or part of the total county mental health program as described in the county Short-Doyle annual plan for each fiscal year to the extent that the governmental funding source participates in funding the county mental health program. Any federal authorization or any waiver that is necessary to allow Medi-Cal funds for mental health services to be bound pursuant to this paragraph, shall be sought by the State Department of Mental Health and the State Department of Health Services. Where the

State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan or contract.

(2) A negotiated rate is the payment for services delivered on a per unit of service basis. This rate shall be negotiated between the provider of services and the county mental health program. The negotiated rate shall be submitted to the State Department of Mental Health prior to the commencement date of the contract. No contract shall become final until the State Department of Mental Health has approved the rate. If approval is received after the commencement date of the contract, the approval shall be retroactive to the commencement date. Should the negotiated rate be disapproved after the commencement date of the contract, the provider shall be compensated for work performed pursuant to the contract in accordance with the provisions of Section 5705.1. Once this rate is approved by the State Department of Mental Health, all participating governmental funding sources shall be bound by that amount as the cost of providing that service for that county mental health program to the extent that the governmental funding source participates in funding the county mental health program. Any federal authorization or any waiver that is necessary to allow Medi-Cal funds for mental health services to be bound pursuant to this paragraph, shall be sought by the State Department of Mental Health and the State Department of Health Services. Where the State Department of Health Services promulgates regulations for determining reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program, those regulations shall be controlling only as to the rates for reimbursement of Short-Doyle mental health services allowable under the Medi-Cal program and rendered to Medi-Cal beneficiaries. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program any information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

(c) The director may negotiate net amount contracts between counties and the State Department of Mental Health in lieu of the annual Short-Doyle plan and budgets. Provisions of the contract shall include at least the following:

(1) Assurance of an adequate quality and quantity of services.

(2) Provision for access to services by patients residing within the contracting county.

(3) Statistical and cost reporting necessary to maintain the statewide mental health data base. For the purpose of verifying the conformance to provisions of the contract and the establishment of data necessary for subsequent contract negotiation, the State Department of Mental Health shall have access to financial and service records.

(4) A method for reimbursing the State Department of Mental Health for state hospital obligations incurred by the county.

(5) Assurance that citizen participation as described in Section 5606 will be achieved.

(6) A negotiated net amount contract shall not preclude the county from subcontracting to purchase all or part of the delivery of mental health services from noncounty providers.

(7) Assurance that all funds paid out by the state under this subdivision shall be used exclusively for the purpose of providing mental health services, which shall include, but not be limited to, defraying operating and capital costs.

Contracts entered into under this subdivision shall be subject to all the provisions of subdivisions (a) and (b).

(d) It is the intent of the Legislature that, until July 1, 1987, not more than three county contracts as specified in subdivision (c) shall be negotiated. Those contracts shall be effective no earlier than July 1, 1984. Negotiations shall be completed by October 1 of each year and the contract shall be retroactive to July 1 of that year.

(e) It is not the intent of the Legislature to preclude counties from reimbursing providers by using methods other than those in this section when these counties are part of a Short-Doyle and Medi-Cal consolidation program established pursuant to Article 5 (commencing with Section 14660) of Chapter 8.8 of Part 3 of Division 9.

(f) Counties that propose to negotiate rate or net amount contracts with the State Department of Mental Health pursuant to subdivision (c) in lieu of the Short-Doyle annual plan shall inform the Mental Health Advisory Board of its intentions in the following ways:

(1) Prior to opening of negotiations, the local program director shall submit to the board an outline of issues to be negotiated and the intended agreement on each issue.

(2) At each regular meeting of the board, during the period of negotiations, the local program director shall inform the board of progress on each issue and shall request the board's advice on how to further proceed on the negotiations.

(g) The county shall bear the financial risk in providing any and all mental health services to the population described and enumerated in the approved contract within the net amount.

(h) This section shall remain in effect only until July 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1987, deletes or extends such date.

SEC. 4. Section 5705.2 is added to the Welfare and Institutions Code, to read:

5705.2. Negotiated net amounts or rates may be used as the cost of services only in accordance with the following subdivisions:

(a) Negotiated net amounts may be used as the cost of services in a contract which provides for the delivery of all or part of the total county Short-Doyle annual plan for each fiscal year. The negotiated net amount shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health emphasizing success in program outcome versus providers' expenditures. Contracts entered into pursuant to this paragraph shall be financed within an approved Short-Doyle plan. For negotiated net amounts contracts that provide for the delivery of 75 percent or more of the total county Short-Doyle annual plan, the contracting organization shall bear the financial responsibility for the local match requirement, which shall not include state or federal funds directly allocated to the contracting organizations, for the portion of the county program covered by the contract.

(b) Negotiated rates may be used as the cost of services in contracts by providers with counties. The negotiated rate shall be approved by the State Department of Mental Health prior to commencing services for reimbursement. Providers under this subdivision shall report to the State Department of Mental Health and the local mental health program cost accounting and any other information required by the State Department of Mental Health in accordance with procedures established by the Director of Mental Health.

This section shall become operative July 1, 1987.

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 for this act to be effective in the 1983–84 fiscal year for effective mental health planning it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1208

An act to amend Section 1580.5 of, and to add Article 5.5 (commencing with Section 1588) to Chapter 3.5 of Division 2 of, the Health and Safety Code, and to amend Sections 14529 and 14573 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 28, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 1580.5 of the Health and Safety Code is amended to read:

1580.5. Following adoption of the uniform evaluation method pursuant to Section 1580.2, every licensed adult day health center shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted prior to recertification or at least every two years and as often as necessary to ensure the quality of care being provided, whether initiated by the state department or pursuant to Section 1580.9.

After each inspection and evaluation, the state department shall notify the adult day health center in writing of any deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility. Upon a finding of noncompliance, the state department may also assess a civil penalty not to exceed fifty dollars ($50) per day for each violation continuing beyond the date fixed in the notice for correction. If the violation is not corrected within such time, the civil penalty shall accrue from the date of receipt of the notice by the licensee. If the violation continues beyond the date fixed for correction, the state department may also initiate action against the licensee in accordance with the provisions of Article 7 (commencing with Section 1595).

Where a civil penalty is to be assessed pursuant to this section, the notice shall specify the amount thereof and shall be served upon the licensee in a manner prescribed by subdivision (c) of Section 11505 of the Government Code. Any judicial action required to collect a civil penalty assessed pursuant to this section shall be brought by the Attorney General acting on behalf of the state department in the superior court of the county in which the adult day health center is located.

SEC. 2. Article 5.5 (commencing with Section 1588) is added to Chapter 3.5 of Division 2 of the Health and Safety Code, to read:

Article 5.5. Grants-in-Aid Program

1588. (a) The state department shall, subject to the availability of funds appropriated therefor, conduct a grants-in-aid program for the following purposes:

(1) To assist in the establishment of new adult day health care centers.

(2) To assist in stabilizing the health care operations of adult day health care centers which have been licensed in the previous two years prior to the operative date of this article.

(3) To fund innovative and creative adult day health care programs designed to provide a high quality of health services at a minimum cost.

(b) If sufficient funds are available, the state department may use the funds to assist in local planning efforts for adult day health care.

(c) The grants authorized pursuant to this article shall be limited in purpose to defraying operating expenses of the center, including staffing costs. required renovation cost, and facility rental costs.

1588.2. Eligibility for grants pursuant to this article shall be limited to any public or private nonprofit agency. The grant amount available for a single project shall not exceed fifty thousand dollars ($50,000). As a condition of making a grant, the director shall require the applicant to match not less than 20 percent of the amount granted. The required match may be cash or in-kind contributions, or a combination of both. In-kind contributions may include, but shall not be limited to, staff and volunteer services. The director may waive all or a portion of the grantee match in individual cases of demonstrated financial hardship if the director determines that making the grant would effectively serve the purposes of this article. The director shall adopt criteria to be applied in determining whether to grant requests for such waivers.

1588.5. In developing policies and priorities pertaining to the allocation of grant funds, the state department shall give primary consideration to the following factors:

(a) The applicant's need for funds.

(b) The demonstrated community support for the project.

(c) The applicant's long-term prospects for financial stability.

(d) The applicant's ability to serve the needs of eligible recipients of Medi-Cal benefits.

(e) The density of the elderly population in the applicant's service area.

(f) The applicant's ability to provide innovative services and to coordinate other services in the continuum of care.

(g) Special consideration shall be given to any applicant who is in any one of the following categories:

(1) Applicants in rural areas.

(2) Applicants in counties where there are no other centers.

(3) Applicants who deliver services in an area with a high ethnic minority population.

1588.7. (a) The state department shall adopt specific guidelines for the establishment of grant-supported activities, including criteria for evaluation of each activity and monitoring to assure compliance with grant conditions and applicable regulations of the state department. The guidelines shall be developed in consultation with the Adult Day Health Care Review Committee and local adult day health care planning councils. Funds shall not be awarded until the proposal receives favorable recommendation from the local adult day health planning council, as established pursuant to Section 1572.5, and is approved by the state department.

(b) The state department shall develop a contract with each selected project.

1589. The sum of three hundred fifty thousand dollars ($350,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the State Department of Health Services to provide grants, and to defray administrative expenses incurred, pursuant to this article.

SEC. 3. Section 14529 of the Welfare and Institutions Code is amended to read:

14529. The multidisciplinary health team conducting an assessment pursuant to Section 14528 shall consist of at least the individual's personal physician or a staff physician, or both, a registered nurse, social worker, occupational therapist, and physical therapist. The assessment team shall:

(a) Determine the medical, psychosocial, and functional status of each participant.

(b) Develop an individualized plan of care, including goals, objectives, and services designed to meet the needs of the person, which shall be signed by each member of the multidisciplinary team, except that the signature of only one physician member of the team shall be required.

(c) At least biannually reassess the participant's individualized plan of care and make any necessary adjustments to the plan.

SEC. 4. Section 14573 of the Welfare and Institutions Code is amended to read:

14573. Initial Medi-Cal certification for adult day health care providers shall expire 12 months from the date of issuance. The Director of Health Services shall specify such date as he or she determines is reasonably necessary because of the record of the applicant and to carry out the purposes of this chapter, but not more than 24 months from the date of issuance, when renewal of such certification shall expire. Before certification renewal the provider shall submit with the application therefor a report according to department specifications which includes an analysis of income and expenditures, continued demonstrated community need, services, participant statistics and outcome, and adherence to policies and procedures. Prior to approving renewal of Medi-Cal certification, the department shall conduct an onsite financial, medical, and management audit concurrent with the licensing review. Such review shall be conducted by a team of persons with appropriate technical skills. The management audit shall be performed by the departmental entity responsible for directing and coordinating the program.

Where the director determines that the public interests would be served thereby, a public hearing may be held on any such renewal application. The findings of the departmental program and licensing review and the provider's annual evaluation report shall be presented at the hearing.

SEC. 5. There is hereby appropriated to the Department of Social Services the sum of one hundred thousand dollars ($100,000), in augmentation of Item 5180-141-001 of the Budget Act of 1983, for allocation in the 1983–84 fiscal year to Orange County as the state's share of the cost of an automated welfare case budgeting system developed as an enhancement of an electronic data processing system. The Department of Social Services shall allocate the funds to Orange County only after the department has approved a feasibility study report, prepared by Orange County, regarding the automated welfare budgeting system.

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:

Funds are urgently needed for adult day health centers to serve the needs of eligible recipients of Medi-Cal benefits and the elderly population to avoid institutionalization. It is, therefore, essential that this act go into immediate effect. Additionally, in order that state funding may be allocated within the 1983–84 fiscal year for a vital automated welfare case budgeting system, it is necessary that this act take effect immediately.

CHAPTER 1209

An act to amend Section 740 of the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 740 of the Insurance Code is amended to read:

740. (a) Notwithstanding any other provision of law, and except as provided herein, any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the department unless the person or other entity shows that while providing such services it is subject to the jurisdiction of another agency of this or another state or the federal government.

(b) A person or entity may show that it is subject to the jurisdiction of another agency of this or another state or the federal government by providing to the commissioner the appropriate certificate or license issued by the other governmental agency which permits or qualifies it to provide those services for which it is licensed or certificated.

(c) Any person or entity which is unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government, shall submit to an examination by the commissioner to determine the organization and solvency of the person or the entity, and to determine whether or not such person or entity is in compliance with the applicable provisions of this code, and shall be required to obtain a certificate of authority to do business in California and be required to meet all appropriate reserve, surplus, capital, and other necessary requirements imposed by this code for all insurers.

(d) Any person or entity unable to show that it is subject to the jurisdiction of another agency of this or another state or the federal government shall be subject to all appropriate provisions of this code regarding the conduct of its business.

(e) The department shall prepare and maintain for public inspection a list of those persons or entities described in subdivision (a) which are not subject to the jurisdiction of another agency of this or another state or the federal government and which the department knows to be operating in this state. There shall be no liability of any kind on the part of the state, the department, and its employees for the accuracy of such list or for any comments made with respect to it.

(f) Any administrator licensed by the department who advertises or administers coverage in this state described in subdivision (a), which is provided by any person or entity described in subdivision (c), and where such coverage does not meet all pertinent requirements specified in this code and which is not provided or completely underwritten, insured or otherwise fully covered by an admitted life or disability insurer, hospital service plan or health care service plan, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, and any production agency licensed by the department involved in the transaction, all financial and operational information relative to the content and scope of the plan and, specifically, as to the lack of insurance or other coverage.

Any production agency obtaining knowledge of any coverage relative to the content and scope of a hospital service plan or health care service plan, as required under this subdivision, shall advise and disclose to any purchaser, prospective purchaser, covered person or entity, such knowledge regarding the content and scope of the plan and, specifically, as to the lack of insurance by an admitted carrier or other qualified plan.

(g) A health care service plan, as defined in Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code, shall not be subject to the provisions of this section.

(h) The department, until January 1, 1985, shall notify, in writing, the Commissioner of Corporations whenever it determines that a multiple employer trust qualifies as a health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health Safety Code.

SEC. 2. The provisions of this act shall only be operative if both Assembly Bill 160 and Senate Bill 952 of the 1983–84 Regular Session are enacted.

CHAPTER 1210

An act to amend Sections 17037 and 17060 of, and to add Sections 17060.5, 17061.5, and 17062 to, the Health and Safety Code, relating to employee housing.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 17037 of the Health and Safety Code is amended to read:

17037. Every person, or the agent or officer thereof, constructing, operating, or maintaining a labor camp shall comply with the requirements of this part, building standards published in the State Building Standards Code relating to labor camps, and the other regulations adopted pursuant to the provisions of this part. Any person operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay double the fees prescribed for the permit to operate such camp. Any person found for a second or subsequent time within a five-year period to be operating or maintaining a labor camp without first having obtained a permit to operate from the enforcement agency shall pay four times the fees prescribed for the permit to operate such camp.

SEC. 2. Section 17060 of the Health and Safety Code is amended to read:

17060. (a) Any labor camp which does not conform to this part, building standards published in the State Building Standards Code relating to labor camps, the other regulations adopted pursuant to the provisions of this part, or conditions of the permit, is a public nuisance and if not made to conform within five days, or within such longer period of time, not to exceed 30 days, which may be allowed by the enforcement agency after written notice, shall be abated by proper action brought in the superior court of the county in which the labor camp or greater portion thereof is situated. Where inspection verifies that the owner or operator of a labor camp is proceeding with reasonable diligence, or where conditions beyond the control of the owner or operator prevent conformance, the enforcement agency may grant time extensions not to exceed 30 days in duration. No more than two such extensions shall be allowed by the enforcement agency prior to initiation of action to abate the public nuisance.

(b) Any violation of this part, building standards published in the State Building Standards Code relating to labor camps, the other regulations adopted pursuant to the provisions of this part, or the provisions of the permit which constitute an immediate or material hazard to the health or safety of the occupants of a labor camp, shall

be remedied within five days after written notice by the enforcement agency, or shorter time in case of emergency. In the event of failure to comply with this section, the Attorney General, or the attorney for the enforcement agency, shall, by verified complaint setting forth the facts, apply to the superior court for an order granting the relief for which the action or proceeding is brought until the entry of a final judgment or order.

(c) The superior court may make any order for which application is made pursuant to this section.

(d) In any action or proceeding brought pursuant to this part, service of summons is sufficient if served in the manner provided in the Code of Civil Procedure.

(e) Any enforcement agency which institutes an action or proceeding pursuant to this section shall, at the time of filing the action or proceeding, record in the office of the recorder of the county or counties in which the property affected by the action or proceeding is situated, a notice of the pendency of the action or proceeding.

The enforcement agency may charge the property owner for any costs involved in recording the notice and shall reimburse the owner for any amount charged if the action or proceeding is dismissed or if judgment is rendered for the defendant.

(f) The notice recorded pursuant to subdivision (e) shall be withdrawn by the enforcement agency by recording in the office of the county recorder, in the county or counties in which the notice was recorded, a notice of withdrawal within five days following satisfaction of a court order or other resolution of the action or proceeding.

SEC. 3. Section 17060.5 is added to the Health and Safety Code, to read:

17060.5. (a) The sale or other transfer of property to a third party shall not render moot an action or proceeding brought pursuant to this chapter and instituted by an enforcement agency against the owner of record on the date a citation for a violation of this part was issued.

(b) Any person who obtains an ownership interest in any property after a notice of an action or proceeding has been recorded with respect to the property pursuant to Section 17060, and where there has been no withdrawal of the notice, shall be subject to any order to correct a violation, including any time limitations, specified in a citation issued pursuant to Section 17060.

SEC. 4. Section 17061.5 is added to the Health and Safety Code, to read:

17061.5. (a) Any person who is convicted pursuant to subdivision (a) of Section 17061 for a second or subsequent time within a five-year period shall be punishable by a fine not to exceed two thousand dollars ($2,000) or by imprisonment not exceeding six months, or both such fine and imprisonment.

(b) Any person found in contempt of a court order or injunction

pursuant to Section 17060 for a second or subsequent time within a five-year period is guilty of a misdemeanor, punishable by a fine not to exceed two thousand dollars ($2,000) or by imprisonment not exceeding six months, or both such fine and imprisonment.

(c) Any person found in contempt of a court order or injunction pursuant to Section 17060, or who is convicted pursuant to subdivision (a) of Section 17061, for a second or subsequent time within a five-year period for violations that are determined by the trier of fact to be so extensive and of such a nature that the immediate health and safety of residents or the public is endangered and where the extent and nature of the violations are due to the defendant's habitual neglect of customary maintenance and display a flagrant lack of concern for the health and safety of residents or the public, shall be punishable by a fine not exceeding two thousand dollars ($2,000) and by imprisonment for not less than six months, but not exceeding one year, if the trier of fact finds at least three serious violations of the following categories of violations are involved:

(1) Termination, extended interruption, or serious defects of gas, water, or electric utility systems, if the interruption or termination is not caused by the tenant's failure to pay gas, water, or electric bills.

(2) Serious defects or lack of adequate space and water heating.

(3) Serious rodent, vermin, or insect infestation.

(4) Severe deterioration, rendering significant portions of the structure unsafe or unsanitary.

(5) Inadequate numbers of garbage receptacles or service.

(6) Unsanitary conditions affecting a significant portion of the structure as a result of faulty plumbing or sewage disposal.

SEC. 5. Section 17062 is added to the Health and Safety Code, to read:

17062. Fines collected pursuant to this part in excess of five hundred dollars ($500) per violation shall be paid to the enforcement agency which had the major responsibility for investigating the violations.

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.

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 1211

An act to amend Sections 17222, 17275, and 29100 of, and to add Sections 17280.1 and 17280.2 to, the Government Code, and to amend Section 5097.2 of, and to repeal Section 5097.1 of, the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 17222 of the Government Code is amended to read:

17222. By a majority vote the committee shall fix the rate of interest paid on registered warrants at not more than 5 percent per annum.

SEC. 2. Section 17275 of the Government Code is amended to read:

17275. Any interest paid on any registered warrant shall accrue to the person holding the warrant on the date of redemption. A registered warrant ceases to bear interest on the first of the following dates:

(a) The maturity date indorsed on its face, if any, if on that date unapplied money or the proceeds of refunding warrants are available for its payment.

(b) The date following the day it is first advertised as payable, pursuant to this article.

(c) The date specified in subdivision (b) of Section 17280.1.

SEC. 3. Section 17280.1 is added to the Government Code, to read:

17280.1. (a) A taxpayer who has a tax liability, including any liability for periodic estimated tax payments, with respect to personal income taxes or bank and corporation taxes, and who is a payee named in a registered warrant as defined in Section 17221 which is received in payment of an obligation of the State of California to the taxpayer, may pay any tax liability specified above, in whole or in part, by a check in an amount not to exceed the amount of the registered warrant, exclusive of any interest thereon. That check shall not be presented for payment by the state or paid by the bank on which it is drawn until the registered warrant payable to the taxpayer is payable upon its presentation to the Treasurer. The provisions of this section shall be applicable only if the taxpayer's check in payment of a tax liability pursuant to this section is accompanied by a copy of the registered warrant, as specified above, which clearly discloses the name of the payee, the amount to be paid, the number of the warrant, and the completed and signed legend as provided for in subdivision (d).

(b) Any taxpayer submitting a check for the payment of taxes

pursuant to subdivision (a) shall be precluded from receiving interest on his or her registered warrant from the date the check for the payment of taxes is submitted.

(c) In the event that a taxpayer who submits a check for the payment of taxes pursuant to subdivision (a) presents his or her registered warrant to a bank or other institution for payment, the taxpayer shall make a declaration upon presentment that he or she is ineligible pursuant to subdivision (b) to receive interest from the date he or she submitted the check.

(d) To facilitate the taxpayer in making the declaration required by subdivision (c), all registered warrants issued shall bear a legend on the reverse side in substantially the following form:

"In endorsing this warrant, I declare that I have ☐ or have not ☐ (check one) submitted a check on _____
(date)
for the payment of tax liability in an amount not to exceed the amount of this warrant. I further declare that by submitting that check, I am ineligible for the receipt of interest on this warrant after the above date."

SEC. 4. Section 17280.2 is added to the Government Code, to read:

17280.2. In the event a tax liability is paid, in whole or in part, with a registered warrant which is redeemable at the time the tax liability is paid, interest as specified in this article, shall be credited to the taxpayer's account.

SEC. 5. Section 29100 of the Government Code is amended to read:

29100. On or before September 1st of each year, the board shall fix the rates of taxes on the secured roll, by determining the percentage of full value on the secured roll required to raise the revenue authorized by this section. The rate shall be such as will produce, after due allowance for delinquency and anticipated changes to the roll, and as applicable, after due allowance for disputed tax revenues anticipated to be impounded pursuant to Section 26906.1 of this code, the amount determined as necessary to be raised by taxation on the secured roll.

The allowance for delinquency and anticipated changes to the roll shall be as fixed by law or by the board. The allowance for disputed tax revenues shall be as fixed by the board. The final determination for either or both allowances may be made at the same time as tax rates are fixed.

The amount to be raised by taxation on the secured roll is found by deducting from the total appropriations and reserve requirements of a fund, the respective total of:

(a) The amount of estimated revenue from other sources, including taxes anticipated on the unsecured roll, and

(b) The fund balance-available.

The amount of revenue from other sources and of the fund balance-available may be re-estimated at the time of fixing the tax

rates and may be increased or decreased by the board and the amounts so determined by the board are conclusive and final.

SEC. 6. Section 5097.1 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 5097.2 of the Revenue and Taxation Code is amended to read:

5097.2. Notwithstanding the provisions of Sections 5096 and 5097, any taxes paid before or after delinquency may be refunded by the county tax collector or the county auditor, within four years after the date of payment, if:

(a) Paid more than once.

(b) The amount paid exceeds the amount due on the property as shown on the roll.

(c) The amount paid exceeds the amount due on the property as the result of corrections to the roll or cancellations ordered by the board of supervisors after such taxes were paid.

(d) In any other case, where the claim for refund is made under penalty of perjury and is for an amount less than ten dollars ($10), with the written consent of the district attorney.

(e) The amount paid exceeds the amount due on the property as the result of a reduction attributable to a hearing before an assessment appeals board or an assessment hearing officer.

CHAPTER 1212

An act to add and repeal Sections 11346.9 and 11346.95 of the Government Code, relating to state administrative regulations, and making an appropriation therefor.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 11346.9 is added to the Government Code, to read:

11346.9. (a) The Legislature finds and declares that economic factors should be given careful consideration by agencies proposing regulatory actions. The Legislature further finds and declares that the state's duty to protect the peace, health, safety, and general welfare of the people of California may take precedence over such economic considerations.

(b) If any action is proposed to adopt or amend a regulation, subject to the provisions of this chapter as set forth in subdivision (c), the agency shall publish a notice of that fact pursuant to Sections 11346.4 and 11346.5, and shall prepare a clear and concise economic impact statement which shall be included in the statement of reasons required by Section 11346.7 and which shall include all of the

following:

(1) An estimate of the compliance cost of the regulatory action to all persons and business entities directly affected.

(2) An estimate of the impact of the regulatory action on the level and distribution of costs and prices for large and small businesses.

(3) An estimate of the impact on the level of employment in the state.

(4) A description of the major alternatives to the regulatory action considered by the agency, and a statement of the reasons why one alternative was selected over the others.

(5) A statement of the data and methods used in making each of the above estimates. Methodology used in making estimates shall be based on guidelines developed by the interagency council pursuant to Section 11346.95.

Any emergency regulation adopted by an agency pursuant to the provisions of Section 11346.1 shall be exempt from the provisions of this subdivision until the regulation is set for hearing by the agency pursuant to the provisions of subdivision (e) of Section 11346.1. At that time, an economic impact statement, if applicable, shall be included in the statement of reasons required to be published pursuant to Section 11346.7. The office shall determine which health and safety emergency regulations shall be exempt from the filing of an economic impact statement, if those regulations are necessary for the preservation of the immediate health and safety of the public.

This subdivision does not apply to any action to adopt or amend any intergovernmental regulation which does not affect any business or corporation or to any action by the governing body of any state retirement system to adopt or amend a regulation.

(c) An economic impact statement shall be prepared pursuant to subdivision (b) if the proposed regulation set has been selected pursuant to Section 11346.95.

(d) The statement required by subdivision (b) shall be prepared prior to the time that the notice referred to in Section 11346.5 has been published. The statement shall be updated prior to final adoption of the regulation by the agency.

The final statement shall include a summary of the primary considerations raised by persons outside the agency in opposition to the economic impact statement, together with a brief explanation of the reasons for rejecting those considerations.

(e) The statement required by subdivision (b) shall be transmitted to the office at the same time that the adopted or amended regulation is sent and shall be utilized by the office in its review of the regulation pursuant to Section 11349.1.

(f) 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 proposed to adopt or amend which are different from the corresponding provisions of the federal regulation. If any provision of this section is in conflict with Section 11346.5, 11346.7, or 11346.13, the provision of this section shall prevail.

This section shall become operative on July 1, 1984, and shall remain in effect only until December 31, 1985, and as of that date is repealed.

SEC. 2. Section 11346.95 is added to the Government Code, to read:

11346.95. An interagency council is hereby created composed of representatives from the Department of Finance, the Department of Economic and Business Development, and such other members as the Governor may appoint, for all of the following purposes:

(a) Developing the methodological guidelines required by paragraph (5) of subdivision (b) of Section 11346.9.

(b) Developing the selection process and identifying and selecting not more than six sets or filings, as defined, of proposed regulations from several state agencies for the required economic impact statement focusing on those agencies which promulgate the majority of regulations with a significant impact on business, including, but not limited to, the following agencies:

(1) California Community Colleges.
(2) Department of Housing and Community Development.
(3) Department of Fair Employment and Housing.
(4) Department of Food and Agriculture.
(5) Department of Forestry.
(6) Department of Industrial Relations.
(7) Resources Agency.
(8) State Department of Health Services.
(9) State Department of Social Services.
(10) Office of Statewide Health Planning.

"Sets or filings" as used in this section includes one regulation or a group of related regulations which are filed as a package with the Office of Administrative Law.

(c) The council shall work with the selected agencies to guide their analyses and ensure the accurate accounting of state resources utilized.

(d) The council shall meet at least once a month.

The interagency council and the Department of Economic and Business Development shall evaluate the effectiveness of, and make recommendations concerning, Section 11346.9, with comments by the Legislative Analyst, by December 31, 1985. The Department of Economic and Business Development shall be responsible for the submission of the interagency council report to the Legislature.

This section shall remain in effect until December 31, 1985, and as of that date is repealed.

SEC. 3. The sum of eighteen thousand dollars ($18,000) is hereby appropriated from the General Fund to the Department of Economic and Business Development for the purpose of hiring one research analyst for the period of January 1, 1984, to June 30, 1984, inclusive, for the development of the methodological guidelines to be used in accordance with the purposes of this act.

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 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 1213

An act to add Section 24702 to, the Education Code, and to amend Section 6217.5 of, and to add Chapter 8 (commencing with Section 6475) to Part 1 of Division 6 of, the Public Resources Code, relating to the Teachers' Retirement Fund, and making an appropriation therefor.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 24702 is added to the Education Code, to read:

24702. (a) The annual revenues deposited to the Teachers' Retirement Fund pursuant to Section 6217.5 of the Public Resources Code are continuously appropriated without regard to fiscal year for the purposes of this section and shall be distributed annually in quarterly supplemental payments commencing on September 1 of each year to retirants, disabilitants, and beneficiaries. The amount available for distribution in any year shall be the income for that year from the sale or use of school lands and lieu lands, as estimated by the State Lands Commission prior to the beginning of the fiscal year, adjusted by the difference between the estimated and actual income for the preceding fiscal year. The board shall deduct from the revenues an amount necessary for administrative expenses to implement this section.

(b) The net revenues to be distributed shall be allocated among those retirants, disabilitants, and beneficiaries whose allowances, after sequentially applying the annual improvement factor as defined in Section 22131 and the annual supplemental payment as defined in Section 24701, if any, are below 75 percent of original purchasing power. The purchasing power calculation for each

individual allowance shall be based on the change in the All Urban California Consumer Price Index between June of the calendar year of retirement and June of the fiscal year preceding the fiscal year of the distribution. The allocation shall provide a pro rata share of the amount needed to restore the allowance payable, after sequential application of the current year annual improvement factor and the supplemental payment under Section 24701, to 75 percent of original purchasing power.

(c) The allowance increase shall not be applicable to annuities payable from the accumulated annuity deposit contributions or the accumulated tax-sheltered annuity contributions.

(d) In any year that the net revenues from school lands and lieu lands is greater than that needed to adjust the allowances of all retirants, disabilitants, and beneficiaries to 75 percent of original purchasing power, the net revenues in excess of that needed for distribution shall be used by the board to reduce the unfunded actuarial obligation of the fund.

(e) The board shall inform each recipient of supplemental payments under this section that the increases are not cumulative and are not part of the base retirement allowance.

SEC. 2. Section 6217.5 of the Public Resources Code is amended to read:

6217.5. Commencing on July 1, 1984, all net revenues, moneys, and remittances from the sale or use of school lands and lieu lands shall be deposited in the State Treasury to the credit of the Teachers' Retirement Fund and shall be expended pursuant to Section 24702 of the Education Code.

SEC. 3. Chapter 8 (commencing with Section 6475) is added to Part 1 of Division 6 of the Public Resources Code, to read:

CHAPTER 8. STATE TEACHERS' RETIREMENT LANDS ACT

6475. This chapter shall be known and may be cited as the "State Teachers' Retirement Lands Act."

6476. The beneficial use and proceeds from the sale or use of school lands granted to, and lieu lands selected by, the state are hereby vested for the benefit of the State Teachers' Retirement System for the purpose of making quarterly supplemental payments pursuant to Section 24702 of the Education Code.

6477. The State Lands Commission shall report quarterly to the Teachers' Retirement Board and annually to the Legislature and the Governor on the management of school and lieu lands.

CHAPTER 1214

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

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. For purposes of Section 41856 of the Education Code, the approved home-to-school transportation aid received by the Belleview Elementary School District for the 1981–82 school year shall be deemed to be twenty thousand one hundred eight dollars ($20,108), and apportionments to that school district for the 1982–83 fiscal year and each fiscal year thereafter shall be computed on that basis.

For purposes of Section 42240 of the Education Code, the Belleview Elementary School District shall qualify for home-to-school transportation aid in the amount of sixteen thousand ninety-nine dollars ($16,099).

SEC. 2. For purposes of Section 41856 of the Education Code, the approved home-to-school transportation aid received by the Snowline Joint Unified School District for the 1981–82 school year shall be deemed to be one hundred ninety-four thousand three hundred fifty dollars ($194,350), and apportionments to that school district for the 1982–83 fiscal year and each fiscal year thereafter shall be computed on that basis.

SEC. 3. For purposes of Section 41856 of the Education Code, the approved home-to-school transportation aid received by the Center Unified School District for the 1981–82 school year shall be deemed to be one hundred forty-nine thousand eight hundred fifty dollars ($149,850), and apportionments to that school district for the 1982–83 fiscal year and each fiscal year thereafter shall be computed on that basis.

SEC. 4. For purposes of Section 41856 of the Education Code, the approved home-to-school transportation aid received by, the Bellflower Unified School District for the 1981–82 school year shall be deemed to be one hundred eight thousand two hundred thirty-one dollars ($108,231), and apportionments to that school district for the 1982–83 fiscal year and each fiscal year thereafter shall be computed on that basis.

SEC. 5. For purposes of Section 41856 of the Education Code, the approved home-to-school transportation aid received by the Snelling-Merced Falls Union Elementary School District for the 1981–82 school year shall be deemed to be ten thousand six hundred sixty-nine dollars ($10,669), and apportionments to that school district for the 1982–83 fiscal year and each fiscal year thereafter shall be computed on that basis.

SEC. 6. For purposes of Section 41856 of the Education Code, the approved home-to-school transportation aid to be received by the Los Alamitos Unified School District for expenditures in the 1982–83 school year shall be three hundred three thousand five hundred twenty-five dollars ($303,525), and apportionments to that school district for the 1983–84 fiscal year and each fiscal year thereafter shall be computed on that basis.

SEC. 7. For purposes of Section 41856 of the Education Code, the approved home-to-school transportation aid to be received by the Gorman Elementary School District in the 1983–84 school year shall be twenty-two thousand two hundred seventy-three dollars ($22,273), and apportionments to that school district for the 1983–84 fiscal year and each fiscal year thereafter shall be computed on that basis.

SEC. 8. Due to the unique circumstances concerning the availability of pupil transportation services in the Belleview Elementary School District, the Snowline Unified School District, the Center Unified School District, the Bellflower Unified School District, the Snelling-Merced Falls Union Elementary School District, the Los Alamitos Unified School District, and the Gorman 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.

SEC. 9. Regardless of when this act becomes effective, it is the intent of the Legislature to make changes in state apportionments to school districts in the 1982–83 fiscal year. For purposes of implementing the changes required by Sections 1, 2, 3, 4, 5, and 6 of this act, the Superintendent of Public Instruction 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 A of the State School Fund and other public funds.

SEC. 10. It is the intent of the Legislature that each school district affected by the provisions of this act shall receive apportionments of state funds based upon their approved home-to-school transportation program costs in an amount which reflects an equitable sharing of those expenses among state and local resources.

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 that the Belleview Elementary School District, the Snowline Unified School District, the Center Unified School District, the Bellflower Unified School District, the Snelling-Merced Falls Union Elementary School District, the Los Alamitos Unified School District, and the Gorman Elementary School District shall be entitled to home-to-school transportation aid at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1215

An act to repeal Section 3 of Chapter 1253 of the Statutes of 1980, relating to mentally retarded defendants.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 3 of Chapter 1253 of the Statutes of 1980 is repealed.

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 1216

An act to amend Sections 18029.3, 18038.7, 18075.5, 18116, and 18551 of the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 18029.3 of the Health and Safety Code is amended to read:

18029.3. Any manufactured home, mobilehome, vehicle, or transportable structure that is manufactured, remanufactured, altered, used, or converted for use as a commercial coach or special purpose commercial coach shall comply with the provisions of this part relating to construction, fire safety, electrical, heating, mechanical, plumbing, occupancy, and energy conservation.

SEC. 2. Section 18038.7 of the Health and Safety Code is amended to read:

18038.7. No deficiency judgment shall lie in any event, after the sale of any manufactured home, mobilehome, or commercial coach

subject to registration pursuant to this part, for failure of the purchaser to complete his or her sale contract given to the seller to secure payment of the balance of the purchase price of the manufactured home, mobilehome, or commercial coach. The provisions of this section shall not apply in the event there is substantial damage to the manufactured home, mobilehome, or commercial coach other than wear and tear from normal usage.

SEC. 3. Section 18075.5 of the Health and Safety Code is amended to read:

18075.5. Manufactured homes, mobilehomes, and commercial coaches sold or used within this state shall be subject to annual registration with the department except as follows:

(a) Manufactured homes and mobilehomes subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, and not installed on foundation systems pursuant to Section 18551, shall be subject to registration only at the time of sale, resale, or transfer of title.

(b) Manufactured homes, mobilehomes, and commercial coaches installed or to be installed on foundation systems pursuant to Section 18551 shall be exempt from registration so long as they remain affixed to the foundation system. In the event that the manufactured home, mobilehome, or commercial coach, is removed from a foundation system for any purpose other than dismantling or reinstallation on a foundation system, it shall be immediately subject to registration with the department.

(c) A nonresident owner of a foreign manufactured home or mobilehome otherwise subject to registration under this code may, subject to exceptions and special provisions contained in this chapter, occupy or permit occupancy of the manufactured home or mobilehome within this state without registering the manufactured home or mobilehome in, or paying any fees to, this state, subject to the condition that the manufactured home or mobilehome at all times, when occupied in this state, is duly registered in the place of residence of the owner and displays on the manufactured home or mobilehome a valid registration issued for that manufactured home or mobilehome in the place of residence of the owner.

For the purposes of the exceptions and special provisions of this part, a registration issued by any foreign jurisdiction shall be deemed to be valid for not more than one year from the date of initial use in this state.

(d) Any nonresident owner of a foreign manufactured home or mobilehome who is a member of the armed forces of the United States on active duty within this state shall be entitled to the exemption granted under subdivision (c) under the conditions set forth therein. Any member of the armed forces, whether a resident or nonresident, shall also be entitled to exemption from registration with respect to a manufactured home or mobilehome owned by the person upon which there is displayed a valid registration issued for

the manufactured home or mobilehome in a foreign jurisdiction where the owner was regularly assigned and stationed for duty by competent military orders at the time the registration was issued. Competent military orders shall not include military orders for leave, for temporary duty, nor for any other assignment of any nature requiring the owner's presence outside the foreign jurisdiction where the owner was regularly assigned and stationed for duty.

(e) Any nonresident owner of a manufactured home or mobilehome of a type subject to registration in this state who, while temporarily living within this state, accepts gainful employment within this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the manufactured home or mobilehome which was in effect at the time the nonresident accepted gainful employment within this state.

(f) Any nonresident owner of a manufactured home or mobilehome of a type subject to registration under this part who becomes a legal resident of this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the manufactured home or mobilehome which was in effect at the time the owner became a resident of this state.

(g) Any person who enters California for the purpose of establishing or reestablishing residence or accepting gainful employment following his or her discharge from the armed forces of this country may occupy a manufactured home or mobilehome owned by that person at the time of his or her discharge and registered to him or her in a foreign jurisdiction where his or her military orders required his or her presence without registering the manufactured home or mobilehome in this state until the expiration of the registration period current at the time of his or her discharge and entrance into California.

(h) Any new and previously unregistered, unoccupied manufactured home, mobilehome, or commercial coach which is part of an inventory held for sale by a manufacturer or dealer in the course of business.

(i) Any new and previously unregistered manufactured home or mobilehome being used as an office, as provided for by this part.

The department may adopt regulations for exempting additional classes of manufactured homes, mobilehomes, and commercial coaches from registration under a temporary or one-trip permit system which permits the lawful transportation and use of manufactured homes, mobilehomes, and commercial coaches not otherwise subject to registration.

SEC. 4. Section 18116 of the Health and Safety Code is amended to read:

18116. (a) The license fee is due and payable to the department each year on or before the expiration date assigned by the department and noted on the registration card. The fee shall be paid

to the department at the time of renewal of registration.

(b) An amount of 20 percent of the license fee shall be added on any application for renewal of registration made later than midnight of the date of expiration. The additional amount shall not be imposed on any application or fee payment received by mail after the date of expiration if the application or payment was, by evidence of postmark, placed in the mail before midnight on the date of expiration. Any manufactured home or mobilehome subject to this article for which registration has been allowed to lapse for 120 days or more shall be subject to local property taxation pursuant to Section 10759.5 of the Revenue and Taxation Code.

(c) Any commercial coach subject to this article for which registration has been allowed to lapse for 120 days or more shall be subject to a penalty of two hundred dollars ($200) to be paid to the department along with all delinquent fees due at the time of the renewal of registration.

(d) It is the intent of the Legislature that license fees levied on manufactured homes, mobilehomes, or commercial coaches subject to this part shall not be altered or increased from the rates and levels of license fees established prior to January 1, 1981.

SEC. 5. Section 18551 of the Health and Safety Code is amended to read:

18551. The department shall establish regulations for manufactured home, mobilehome, and commercial coach foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to manufactured home, mobilehome, and commercial coach foundation systems. The department may approve alternate foundations systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(a) Prior to installation of a manufactured home, mobilehome, or commercial coach on a foundation system, the manufactured home, mobilehome, or commercial coach owner or a licensed contractor shall obtain a building permit from the appropriate local agency. To obtain a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the manufactured home, mobilehome, or commercial coach owner owns or holds title to or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the manufactured home, mobilehome, or commercial coach owners, which is transferable, for the exclusive use of the real property where the manufactured home, mobilehome, or commercial coach is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more from the date of application for the building permit required by this subdivision and the term of the lease is not revocable at the

discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(2) Written evidence acceptable to the local agency that the registered owner owns the manufactured home, mobilehome, or commercial coach free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the manufactured home, mobilehome, or commercial coach, written evidence provided by the legal owner and any lienors or encumbrancers that the legal owner, lienor, or encumbrancer consents to the attachment of the manufactured home, mobilehome, or commercial coach upon the discharge of any personal lien, which may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(3) Plans and specifications required by department regulations or a department-approved alternate for the manufactured home, mobilehome, or commercial coach foundation system.

(4) The manufactured home, mobilehome, or commercial coach manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual manufactured home, mobilehome, or commercial coach in the absence of the manufactured home, mobilehome, or commercial coach manufacturer's instructions.

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars ($11) for each transportable section of the manufactured home, mobilehome, or commercial coach, which shall be immediately transmitted to the department with a copy of the building permit and such other information concerning the manufactured home, mobilehome, or commercial coach as the department may prescribe on forms provided by the department.

On the same day that the certificate of occupancy for the manufactured home, mobilehome, or commercial coach is issued by the appropriate local agency, the local agency shall record with the county recorder of the county in which the real property is situated, on which the manufactured home, mobilehome, or commercial coach has been installed, a document naming the owner of the real property, describing the real property with certainty, and stating that a manufactured home, mobilehome, or commercial coach has been affixed to such real property by installation on a foundation system pursuant to this section.

When recorded, the document referred to above shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

If the manufactured home, mobilehome, or commercial coach is registered with the department, the local agency shall notify the department that the manufactured home, mobilehome, or commercial coach has been installed on a foundation system.

Fees received by the department pursuant to this subdivision shall be deposited in the Mobilehome-Manufactured Home Revolving Fund established under subdivision (a) of Section 18016. To the extent these fees are utilized for enforcement of consumer protections, the provisions of subdivision (b) of Section 18016.5 shall not apply.

(b) The department shall adopt regulations providing for the cancellation of registration of a manufactured home, mobilehome, or commercial coach which is permanently attached to the ground on a foundation system pursuant to this section. The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the manufactured home, mobilehome, or commercial coach owner and the document referred to in paragraph (6) of subdivision (a) is recorded. Cancellation shall be effective as of such date and the department shall enter such cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(c) Once installed on a foundation system in compliance with the provisions of subdivisions (a) and (b), a manufactured home, mobilehome, or commercial coach shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the manufactured home, mobilehome, or commercial coach shall thereafter be prohibited without the consent of all persons or entities who, at the time of removal, have title to any estate or interest in the real property to which the manufactured home, mobilehome, or commercial coach is affixed.

For the purposes of this part:

(1) "Physical removal" shall include, without limitation, the unattaching of the manufactured home, mobilehome, or commercial coach from the foundation system, except for temporary purposes of repair or improvement thereto.

(2) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(d) At least 30 days prior to a legal removal of the manufactured home, mobilehome, or commercial coach from the foundation system and transportation away from the real property to which it was formerly affixed, the manufactured home, mobilehome, or commercial coach owner shall notify the department and the county assessor of the intended removal of the manufactured home, mobilehome, or commercial coach. The department shall require written evidence that the necessary consents have been obtained

pursuant to this section and shall require application for either a transportation permit or manufactured home, mobilehome, or commercial coach registration as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the manufactured home, mobilehome, or commercial coach shall be deemed to have become personal property and subject to all laws governing the same as applicable to a manufactured home, mobilehome, or commercial coach.

(e) Notwithstanding any other provision of law, any manufactured home, mobilehome, or commercial coach installed on a foundation system, attached, or otherwise permanently affixed to real property without compliance with the provisions of subdivisions (a) and (b), shall not be deemed a fixture or improvement to such real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(f) Once installed on a foundation system, a manufactured home, mobilehome, or commercial coach shall be subject to state enforced health and safety standards for manufactured homes, mobilehomes, or commercial coaches enforced pursuant to Section 18020.

(g) No local agency shall require that any manufactured home, mobilehome, or commercial coach currently on private property be placed on a foundation system.

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 1217

An act to amend Sections 2924c, 2957, and 2963 of, and to add Section 2924d to, the Civil Code, relating to property.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 2924c of the Civil Code, as amended by Chapter 112 of the Statutes of 1983, is amended to read:

2924c. (a) (1) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason

of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including reasonable costs and expenses, subject to the provisions of subdivision (c) of this section, which are actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or attorney's fees, subject to the provisions of subdivision (d) of this section), other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(2) If the trustor, mortgagor, or other person authorized to cure the default pursuant to this subdivision does cure the default, that person may request the beneficiary or the mortgagee or their successors in interest to cause to be executed and recorded a notice of rescission which rescinds the declaration of default and demand for sale and upon receipt of a written request the beneficiary or mortgagee or their successors in interest shall cause to be executed and recorded a notice of rescission. The request to execute and record a notice of rescission shall be directed to the person whose name and address is set forth in the notice required by subdivision (b). The beneficiary, or the mortgagee or their successors in interest, shall cause the notice of rescission to be recorded within 30 days of the receipt of the written request.

No charge, except for the recording fee, shall be made for the execution and recordation of the notice which rescinds the declaration of default and demand for sale.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

"IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within three months from the date this notice of default was recorded.

This amount is _____ as of _____ ,
(Date)

and will increase until your account becomes current. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above.

After three months from the date of recordation of this document (which date of recordation appears hereon), unless the obligation being foreclosed upon permits a longer period, you have only the legal right to stop the foreclosure by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

_____
(Name of beneficiary or mortgagee)

_____
(Mailing address)

_____
(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Remember, YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION. [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the

Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

(c) Costs and expenses which may be charged pursuant to this article shall be limited to the costs incurred for recording, mailing, publishing, and posting notices required by this article and for a trustee's sale guarantee.

(d) Trustee's or attorney's fees which may be charged pursuant to subdivision (a), or until the notice of sale is deposited in the mail to the trustor as provided in Section 2924b, are hereby authorized to be in an amount which does not exceed one hundred fifty dollars ($150) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus one-half of 1 percent of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-eighth of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein.

SEC. 2. Section 2924d is added to the Civil Code, to read:

2924d. (a) Commencing with the date that the notice of sale is deposited in the mail, as provided in Section 2924b, and until the property is sold pursuant to the power of sale contained in the mortgage or deed of trust, a beneficiary, trustee, mortgagee, or his or her agent or successor in interest, may demand and receive from a trustor, mortgagor, or his or her agent or successor in interest, or any beneficiary under a subordinate deed of trust, or any other person having a subordinate lien or encumbrance of record those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three

hundred dollars ($300) with respect to any portion of the unpaid principal sum secured which is fifty thousand dollars ($50,000) or less, plus 1 percent of any portion of the unpaid principal sum secured exceeding fifty thousand dollars ($50,000) up to and including one hundred fifty thousand dollars ($150,000), plus one-half of 1 percent of any portion of the unpaid principal sum secured exceeding one hundred fifty thousand dollars ($150,000) up to and including five hundred thousand dollars ($500,000), plus one-quarter of 1 percent of any portion of the unpaid principal sum secured exceeding five hundred thousand dollars ($500,000). Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amounts authorized herein. Any charge for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (d) of Section 2924c.

(b) Upon the sale of property pursuant to a power of sale, a trustee, or his or her agent or successor in interest, may demand and receive from a beneficiary, or his or her agent or successor in interest, or may deduct from the proceeds of the sale, those reasonable costs and expenses, to the extent allowed by subdivision (c) of Section 2924c, which are actually incurred in enforcing the terms of the obligation and trustee's or attorney's fees which are hereby authorized to be in an amount which does not exceed three hundred dollars ($300) or one and one-third percent of the unpaid principal sum secured, whichever is greater. Any charge for trustee's or attorney's fees authorized by this subdivision shall be conclusively presumed to be lawful and valid where such charge does not exceed the amount authorized herein. Any charges for trustee's or attorney's fees made pursuant to the provisions of this subdivision shall be in lieu of and not in addition to those charges authorized by subdivision (a) of this section and subdivision (d) of Section 2924c.

(c) (1) No person shall pay or offer to pay or collect any rebate or kickback for the referral of business involving the performance of any act required by this article.

(2) Any person who violates this subdivision shall be liable to the trustor for three times the amount of any rebate or kickback, plus reasonable attorney's fees and costs, in addition to any other remedies provided by law.

(3) No violation of this subdivision shall affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value without notice.

(d) It shall not be unlawful for a trustee to pay or offer to pay a fee to an agent or subagent of the trustee for work performed by the agent or subagent in discharging the trustee's obligations under the terms of the mortgage or deed of trust.

SEC. 3. Section 2957 of the Civil Code is amended to read:

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 is an attorney licensed under Chapter 4 (commencing with Section 6000) of Division 3 of the Business and Professions Code if neither party to the transaction is represented by an agent who is a real estate licensee. In any transaction in which disclosure is required solely by the provisions of this paragraph, the obligations of this article shall apply only to a real estate licensee or attorney who is a party to the transaction, and not to any other party.

(3) An arranger of credit does not include a person acting in the capacity as an escrow in the transaction.

(4) Persons described in paragraph (2) who are acting in the capacity as an escrowholder in the transaction shall nevertheless be deemed arrangers of credit where such persons act on behalf of a party to the transaction or an agent of such party in the development or negotiation of credit terms. Neither the completion of credit documents in accordance with instructions of a party or his or her agent nor the furnishing of information regarding credit terms to a party or his or her agent shall be considered to be the development or negotiation of credit terms.

(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 downpayment.

(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.

SEC. 4. Section 2963 of the Civil Code is amended to read:

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 balloon 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 credit or security documents specify who is liable for payment or responsible for defense in the case of an attempted acceleration by a lender or other obligee under a prior encumbrance, and whether or not the credit or security 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 or other obligee under such financing to require a prepayment of the principal balance at or after a stipulated date, or upon the occurrence of a stipulated event, a disclosure of the date and amount of any balloon payment or the amount which would be due upon the exercise of such right by the lender or obligee, 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 escrowholder, 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.

SEC. 5. The provisions of Sections 1 and 2 of this act shall apply to foreclosure proceedings commenced on or after the effective date of this act, and, with respect to foreclosure proceedings pending on

the effective date of this act, the provisions of Sections 1 and 2 shall apply as to any acts taken, costs incurred, trustee's or attorney's fees charged, or any other matter affected by Section 1 or 2, occurring on or after the effective date of this act.

SEC. 6. It is the intent of the Legislature that no change contained in Section 1 or 2 of this act shall be construed in any manner to affect the validity of any fees, costs, or expenses charged prior to the effective date of this act. It is further the intent of the Legislature that the rights and obligations of a trustor, trustee, beneficiary, mortgagor, mortgagee, their agents or subagents or successors in interest existing prior to the effective date of this act shall be determined by the law in effect prior to the effective date of this act, and without application of the changes in law effected by this act.

CHAPTER 1218

An act to amend Sections 5001.65 and 6854 of the Public Resources Code, relating to parks and recreation, and making an appropriation therefor.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 5001.65 of the Public Resources Code is amended to read:

5001.65. Commercial exploitation of resources in units of the state park system is prohibited. However, slant or directional drilling for oil or gas with the intent of extracting deposits underlying the Tule Elk State Reserve in Kern County is permissible in accordance with Section 6854.

Qualified institutions and individuals shall be encouraged to conduct nondestructive forms of scientific investigation within state park system units, upon receiving prior approval of the director.

The taking of mineral specimens for recreational purposes from state beaches, state recreation areas, or state vehicular recreation areas shall be permitted upon receiving prior approval of the director.

SEC. 2. Section 6854 of the Public Resources Code is amended to read:

6854. Lands, including the Tule Elk State Reserve located in Township 30 South, Range 24 East, MDB&M in Kern County, other than tide or submerged lands, belonging to the state and dedicated to a public use may be leased by the commission for the production of oil and gas in accordance with this article and this chapter insofar as not in conflict with this article.

Where those lands have been acquired for the use of a specific state agency, consent of this agency shall be obtained by the commission for occupation by a state lessee of the surface of the lands for drilling locations or producing facilities. The commission may lease those lands, including the Tule Elk State Reserve in Kern County, for the production of oil and gas without the consent of the state agency if development under the lease is made by slant drilling from surface locations on lands not under the control of the state agency. However, the commission shall consult with the Department of Parks and Recreation prior to approving a lease for the production of oil and gas underlying the Tule Elk State Reserve to ensure that the purposes for which the parklands were acquired are not adversely affected.

The commission may grant a subsurface oil and gas lease in accordance with subdivision (b) of Section 6815 covering all or any portion of the Tule Elk State Reserve in Kern County for the production of oil and gas underlying the reserve by means of slant or directional drilling from surface locations outside of the reserve.

SEC. 3. Pursuant to Section 5096.27 of the Public Resources Code, the County of Tulare is hereby authorized to sell 85 acres of the 95-acre Kings River Regional Park which was acquired with a grant of State Beach, Park, Recreational, and Historical Facilities Fund moneys appropriated by Item 349.1(fff) of the Budget Act of 1970 (Chapter 303, Statutes of 1970) and under Department of Parks and Recreation project No. 854-105, subject to all of the following conditions:

(a) The parcel and any improvements thereon shall be sold for at least fair market value.

(b) One hundred three thousand dollars ($103,000), the amount of the state grant, plus interest at the rate earned by funds in the Pooled Money Investment Account in the General Fund from the date the grant was made until the funds are repaid, compounded annually, is transmitted to the Department of Parks and Recreation for deposit in the State Beach, Park, Recreational, and Historical Facilities Fund.

(c) All proceeds of the sale, excluding the costs of sale and the amount specified in subdivision (b), shall be expended only for the acquisition or development, or both, of outdoor recreational facilities at the Kings River Regional Park or elsewhere within the county. 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.

(d) Prior to encumbering any proceeds from the sale, the Board of Supervisors of Tulare County 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.

(e) Prior to encumbering any proceeds from the sale, the county 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 5096.27 of the Public Resources Code.

CHAPTER 1219

An act to amend Sections 1376 and 1585 of, to add and repeal Sections 130.5, 1375.1, and 1375.2 of, and to add and repeal Article 4.5 (commencing with Section 1595) of Chapter 6 of Part 1 of Division 1 of, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 130.5 is added to the Unemployment Insurance Code, to read:

130.5. "Benefit Audit Fund" means the Employment Development Department Benefit Audit Fund.

This section shall remain in effect only until December 31, 1986, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 2. Section 1375.1 is added to the Unemployment Insurance Code, to read:

1375.1. If the director finds that an individual has been overpaid unemployment compensation benefits because he or she willfully, for the purpose of obtaining unemployment compensation benefits, either made a false statement or representation, with actual knowledge of the falsity thereof, or withheld a material fact, the director shall assess against the individual an amount equal to 30 percent of the overpayment amount. Assessments collected under this section shall be deposited in the Benefit Audit Fund.

This section shall remain in effect only until December 31, 1986, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 3. Section 1375.2 is added to the Unemployment Insurance Code, to read:

1375.2. Notwithstanding any other provision of law, the director shall allocate any payment to the department relating to liability established under Sections 1375 and 1375.1 in the following order of priority:

(a) The 30 percent assessment due under Section 1375.1.

(b) Repayment of the overpayment to the fund from which the overpayment was made.

This section shall remain in effect only until December 31, 1986, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date.

SEC. 4. Section 1376 of the Unemployment Code is amended to read:

1376. The Director of Employment Development shall determine the amount of the overpayment and any assessment authorized under Section 1375.1 and shall notify the liable person of the basis of the overpayment determination. In the absence of fraud, misrepresentation, or willful nondisclosure, notice of the overpayment determination shall be mailed or personally served not later than one year after the close of the benefit year in which the overpayment was made.

SEC. 5. Section 1585 of the Unemployment Insurance Code is amended to read:

1585. There is in the State Treasury a special fund known as the Employment Development Department Contingent Fund. The Employment Development Department Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division, except as provided in Section 1595 and in Article 6 (commencing with Section 821) of Chapter 3 and Article 7 (commencing with Section 841) of Chapter 3.

(b) All penalties collected under this division, except as provided in Sections 1375.1, 1958, and 3654.2, and in Article 6 (commencing with Section 821) of Chapter 3 and Article 7 (commencing with Section 841) of Chapter 3.

(c) Notwithstanding any other provision of law, all penalties and interest collected by the department pursuant to Division 6 (commencing with Section 13000) relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.

SEC. 6. Article 4.5 (commencing with Section 1595) is added to Chapter 6 of Part 1 of Division 1 of the Unemployment Insurance Code, to read:

Article 4.5. Benefit Audit Fund

1595. There is in the State Treasury a special fund known as the Employment Development Department Benefit Audit Fund. There shall be deposited in, or transferred to, this fund all sums collected pursuant to Section 1375.1 and all interest from these sums.

1596. All amounts in the Benefit Audit Fund are hereby continuously appropriated without regard to fiscal years for the refund of amounts collected and erroneously deposited therein, and shall be appropriated annually in the Budget Act by the Legislature for the financing of administrative costs associated with the discovery and collection of unemployment compensation benefit

overpayments.

1597. This article shall remain in effect only until December 31, 1986, and as of that date is repealed unless a later enacted statute chaptered prior to that date extends or deletes that date. All moneys remaining when this article is repealed revert to the Employment Development Department Contingent Fund.

1598. The Director of the Employment Development Department shall submit a report by July 1, 1986, evaluating the Benefit Audit Fund and the department's collection of overpaid unemployment compensation benefits. The report shall be transmitted to the Senate Committee on Industrial Relations and the Assembly Committee on Finance and Insurance.

SEC. 7. The net amount of funds collected pursuant to Section 1375.1 through June 30, 1984, is hereby appropriated from the Benefit Audit Fund to the Employment Development Department for purposes of this act for the 1983–84 fiscal year.

CHAPTER 1220

An act to amend Section 1198.5 of the Labor Code, relating to employee personnel files.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 1198.5 of the Labor Code is amended to read:

1198.5. (a) Every employer shall at reasonable times, and at reasonable intervals as determined by the Labor Commissioner, upon the request of an employee, permit that employee to inspect such personnel files which are used or have been used to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action.

(b) Each employer subject to this section shall keep a copy of each employee's personnel file at the place the employee reports to work, or shall make such file available at such place within a reasonable period of time after a request therefor by the employee. A public employer shall, at the request of a public employee, permit the employee to inspect the original personnel files at the location where they are stored at no loss of compensation to the employee.

(c) This section does not apply to the records of an employee relating to the investigation of a possible criminal offense. It shall not apply to letters of reference.

(d) If a local agency has established an independent employee relations board or commission, any matter or dispute pertaining to this section shall be under the jurisdiction of that board or

commission, but an employee shall not be prohibited from pursuing any available judicial remedy, whether or not relief has first been sought from a board or commission.

(e) This section shall apply to public employers, including, but not limited to, every city, county, city and county, district, and every public and quasi-public agency. This section shall not apply to the state or any state agency, and shall not apply to public school districts with respect to employees covered by Section 44031 of the Education Code. Nothing in this section shall be construed to limit the rights of employees pursuant to Section 31011 of the Government Code or Section 87031 of the Education Code, or to provide access by a public safety employee to confidential preemployment information.

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 1221

An act to amend Sections 73101.5, 73113, 73114, 73118, 74004, and 74005 of, and to repeal Section 73101.6 of, the Government Code, relating to courts.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 73101.5 of the Government Code is amended to read:

73101.5. There shall be the following number of judges in divisions of the San Bernardino County Municipal Court District: in the East Division, two; in the Central Division, six; in the Valley Division, two; in the West Valley Division, six; in the Victorville Division, two; in the Barstow Division, one; in the Chino Division, one; and in the Morongo Basin Division, one.

SEC. 2. Section 73101.6 of the Government Code is repealed.

SEC. 3. Section 73113 of the Government Code is amended to read:

73113. The number of positions within each job classification

which may be filled by appointment by the municipal court administrator and the marshal and the salary range prescribed in Section 73113.5 which constitutes the compensation for each job classification are as follows:

Appointed by the Municipal Court Administrator

Job classification	Number	Salary range
Assistant municipal court administrator	1	101
Municipal court division manager II	2	98
Municipal court division manager I	6	94
Data-processing analyst I	1	92
Municipal court division supervisor II	2	90
Municipal court chief clerk	4	83
Courtroom clerk II	29	80
Clerk IV	8	73
Fiscal clerk II	6	70
Fiscal clerk III	2	75
Clerk III	58	69
Clerk II	3	61
Legal procedures clerk I	34	71
Legal procedures clerk II	2	77
Municipal court division supervisor I	5	80
Secretary I	1	74

Appointed by Marshal

Job classification	Number	Salary range	Salary range 6/25/83
Marshal's captain	3	371	
Marshal's lieutenant	5	368	
Marshal's sergeant	8	356	
Deputy marshal	51	315	321
Administrative clerk I	1	76	
Marshal's clerk II	11	70	
Marshal's clerk I	12	65	
Marshal's technician	18	71	
Marshal's radio dispatch clerk	5	67	

The marshal shall also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

In hiring for vacancies in the position of deputy marshal, the marshal may appoint successful candidates as deputy marshal probationary at a flat hourly rate. The flat hourly rate shall be in the sum of

nine dollars and seventeen cents ($9.17) commencing June 26, 1982, and ten dollars and nine cents ($10.09) commencing June 25, 1983, and shall be payable until successful completion of a probationary period of one year, except that the marshal may extend the probationary period for not to exceed six months, after which the deputy marshal probationary shall be advanced to the deputy marshal classification at the "A" step of the appropriate salary range.

SEC. 4. Section 73114 of the Government Code is amended to read:

73114. By order entered in the minutes of the court, a majority of the judges may appoint up to two secretaries as the business of the court requires, to be classified as secretary II. Each shall receive a salary at a rate specified in range 70 of the salary schedule effective on June 28, 1980, range 71 effective on December 27, 1980, range 74 effective on June 27, 1981, and range 77 effective on June 26, 1982, and be otherwise subject to the salary plan provided by Section 73113.5.

SEC. 5. Section 73118 of the Government Code is amended to read:

73118. In any civil action or proceedings, in addition to the fees required by Article 2 (commencing with Section 72050) of Chapter 8 of this title, a fee of sixteen dollars and fifty cents ($16.50) shall be paid to the clerk of the court by each party or jointly by parties appearing jointly, once only in any such action or proceedings, in the following instances:

(a) Upon the filing of a complaint or other first paper;

(b) Upon the filing of an answer or other first paper on behalf of any party (or parties appearing jointly) other than the plaintiff;

(c) Upon the filing of papers transmitted from another court on the transfer of a civil action or a special proceeding.

In civil cases that last longer than one judicial day, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the second and each successive day a reporter is required. The foregoing fees shall apply to cases in which the services of only one official reporter are required; in the event the court, at the request of a party, orders a daily transcript, necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay an additional fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

The fees so required shall be taxed as costs in favor of the party paying the same and to whom costs are awarded by the judgment of the court. All fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as fees collected under Article 2 (commencing with Section 72050) of Chapter 8 of this title. They are not subject to Section 6103.

SEC. 6. Section 74004 of the Government Code is amended to read:

74004. (a) The number of positions within each job classification which may be filled by appointment by the clerk and administrative

officer/executive officer, respectively, of each such court, and the number of the salary range set forth in Section 74005 which constitutes the compensation for each job classification, are shown in the table below, in which the various municipal courts are designated by column headings from left to right in the same order as that in which their judicial districts are named in Section 74000:

Title of job classification	Applicable salary range number	Number of positions authorized in each court				
		NOC	COC	WOC	OCH	SOC
Division head II, municipal court	D54	5	5	5	5	0
Division head I, municipal court	D52	0	0	0	0	3
Courtroom clerk, municipal court	D49	15	16	12	9	6
Deputy clerk IV, municipal court	D41	1	2	1	0	1
Deputy clerk III, municipal court	D39	7	7	8	5	5
Deputy clerk II, municipal court	D34 S/3	19	16	20	16	16
Deputy clerk I, municipal court	D32 S/5	44	51	44	32	18
Legal stenographer	D38 S/3	2	2	2	2	1
Secretary III	D43	1	1	1	1	1
Systems analyst IV	A64	1	1	1	1	0
Supervising detention release officer	A60	0	1	0	0	0
Detention release officer	A54	0	10	0	0	0
Data entry operator II	D35 S/3	14	13	14	11	0
Interpreter, municipal court	A39	2	2	2	1	0
Supervising deputy clerk II, municipal court	D45	2	2	2	1	1
Supervising deputy clerk I, municipal court	D42	3	3	3	2	0
Assistant courtroom clerk, municipal court	D37	3	4	6	4	0
Judicial support officer	A50	0	0	1	1	0

(b) The Legislature finds and declares that the matter of appointing, promoting, demoting, and dismissing persons in positions with the municipal courts and all other aspects of the personnel management of municipal courts of Orange County is one for local concern. It further finds and declares that wherever possible such personnel management may grant to persons in positions with the municipal courts similar treatment with persons in positions with the County of Orange who are performing similar duties and who possess similar qualifications.

(c) To achieve the legislative intent expressed in subdivisions (a) and (b), the municipal courts of Orange County may create a personnel committee consisting of five judges selected one from each court by a majority vote of the judges of the respective courts, or where there is an equal division of the judges of a court, by the senior judge of that court. The personnel committee may adopt rules and regulations providing for a personnel system for all municipal courts of Orange County which may provide for similar treatment for em-

ployees and attachés of the several courts and the marshal's office as is provided for Orange County employees generally. In so providing for a personnel system, the judges may adopt all or any part of the personnel and salary resolution or appropriate memoranda of understanding of the County of Orange.

(d) With the approval of the board of supervisors, the personnel system adopted by the personnel committee and made applicable to all the municipal courts of Orange County may be administered by the County of Orange through its personnel department. The board of supervisors may withdraw its approval at any time.

(e) If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for the prompt and faithful discharge of the business of the court than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, a majority of the judges of any of the courts, with the approval of the board of supervisors, may establish additional titles, pay rates, and positions as they deem necessary for the performance of the duties and exercise of the powers conferred by law upon the courts. Rates of compensation of such other officers, attachés, and employees may be set by joint action and approval of the board of supervisors and a majority of the municipal court judges of Orange County. The establishment of additional titles, positions, and pay rates and changes in compensation made pursuant to this subdivision shall be on an interim basis and shall expire on January 1 of the second year following the year in which such establishment or change is made. The provisions of this section are directory only and are not intended to affect the application of Section 72150.

SEC. 7. Section 74005 of the Government Code is amended to read:

74005. The schedule of biweekly salary ranges referred to in Sections 74002, 74003, and 74004 are those ranges set forth in the Personnel and Salary Resolution adopted by the Orange County Board of Supervisors.

Notwithstanding any other provisions of law, the salaries of municipal court officers, attachés, and employees may upon the joint approval of the personnel committee and the board of supervisors be increased or decreased in order to provide compensation that is comparable to county employees of similar qualifications and experience holding equal or comparable positions in the Orange County classified service as the comparability is determined jointly by the personnel committee and the board of supervisors, except that any such increase or decrease shall be effective only until January 1 of the second year following the year in which such increase or decrease is made.

In the event that the board of supervisors adopts a revised salary schedule for county employees, the board shall confer with the personnel committee, and if both are agreed that the new schedule shall apply also to the officers, attachés, and employees of the municipal courts and marshal's office, the revised salary schedule shall apply equally to the officers, attachés, and employees of municipal courts and marshal's office in the same manner and date as for county employees, except that any such salary adjustment shall only be effective until January 1 of the second year following the year in which such adjustment is made.

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 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 1222

An act to amend Sections 51010, 51010.5, 51011, 51012, 51013, 51015, 51016, and 51018 of, to add Sections 51012.3, 51013.5, 51014.3, 51014.5, 51018.5, 51018.6, 51018.7, 51018.8, and 51019.1 to, and to repeal and add Sections 51014, 51019, and 51020 of, the Government Code, relating to pipeline safety, declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 51010 of the Government Code is amended to read:

51010. It is the intent of the Legislature, in enacting this chapter, that the State Fire Marshal shall exercise safety regulatory and enforcement authority over intrastate hazardous liquid pipelines by implementing the federal Hazardous Liquid Pipeline Safety Act of 1979 (Chapter 29 (commencing with Section 2001) of Title 49 of the United States Code) as necessary to obtain annual federal certification.

SEC. 2. Section 51010.5 of the Government Code is amended to read:

51010.5. As used in this chapter, the following definitions apply:

(a) "Pipeline" includes every intrastate pipeline used for the transportation of hazardous liquid substances, including a common carrier pipeline, but does not include any of the following:

(1) An interstate pipeline subject to Title 49 of the Code of Federal Regulations, Part 195.

(2) Any pipeline owned or operated by a publicly owned or privately owned public utility not used as a common carrier pipeline.

(3) Any crude oil gathering line.

(4) Any oil field flow line.

(5) Any pipeline located entirely within a single plant facility.

(6) A pipeline used for the purposes specified in subsection (b) of Section 195.1 of Title 49 of the Code of Federal Regulations.

(b) "Flow line" means a pipeline going from the wellhead to a gathering line facility.

(c) "Gathering line" means a pipeline that transports crude oil from individual production lease facilities to a tank farm, pipeline terminal, or transmission line.

(d) "Hydrostatic testing" means the application of internal pressure above the normal or maximum operating pressure to a segment of pipeline, under no-flow conditions for a fixed period of time, utilizing a liquid test medium.

(e) "Local agency" means a city, county, or fire protection district.

SEC. 3. Section 51011 of the Government Code is amended to read:

51011. The State Fire Marshal shall adopt hazardous liquid pipeline safety regulations in compliance with the federal law relating to hazardous liquid pipeline safety (Chapter 29 (commencing with Section 2001) of Title 49 of the United States Code) and the regulations adopted pursuant thereto (Title 49 of the Code of Federal Regulations, Part 195), including, but not limited to, compliance orders, penalties, and inspection and maintenance

provisions, and including amendments to those laws and regulations which may be hereafter enacted and adopted.

The State Fire Marshal may exempt the application of regulations adopted pursuant to this section to any pipeline, or portion thereof, when it is determined that the risk to public safety is slight and the probability of injury or damage remote.

SEC. 4. Section 51012 of the Government Code is amended to read:

51012. The State Fire Marshal shall establish a Hazardous Pipeline Safety Technical Standards Committee for purposes of informing local agencies and every pipeline operator of changes in applicable laws and regulations affecting the operations of pipelines and reviewing proposed hazardous liquid pipeline safety regulations adopted pursuant to Section 51011.

The committee shall be composed of eight members of whom two shall represent pipeline operators, three shall represent local agencies, one shall be a fire chief, and two shall be public members. The committee shall meet when requested by the State Fire Marshal, but not less than once a year. The members shall be paid expenses and one hundred dollars ($100) per diem for each meeting.

SEC. 5. Section 51012.3 is added to the Government Code, to read:

51012.3. (a) The operator of a pipeline shall conform the pipeline to the federal regulations in Subparts A, B, and F of Part 195 of Title 49 of the Code of Federal Regulations, in accordance with the following schedule:

(1) On or before July 1, 1984, the pipeline operator shall meet the requirements of section (c) of Section 195.401 of Title 49 of the Code of Federal Regulations but such requirements shall only apply to a pipeline constructed after January 1, 1984.

(2) On or before January 1, 1985, the pipeline operator shall meet the requirements of Section 195.402 of Title 49 of the Code of Federal Regulations.

(3) On or before January 1, 1989, the pipeline operator shall meet the requirements of Section 195.410 and Section 195.414 of Title 49 of the Code of Federal Regulations.

(b) For purposes of applying the federal regulations of Part 195 of Title 49 of the Code of Federal Regulations, the word "Secretary," when it appears in the federal regulations, means the "State Fire Marshal."

SEC. 6. Section 51013 of the Government Code is amended to read:

51013. (a) Any new pipeline constructed after January 1, 1984, and which normally operates under conditions of constant flow and pressure, shall be designed and constructed in accordance with Subparts C and D of Part 195 of Title 49 of the Code of Federal Regulations and shall include a means of leak detection and cathodic protection which the State Fire Marshal determines is acceptable.

(b) Subdivision (a) does not apply to the replacement of valves

and the relocation or replacement of portions of pipelines.

SEC. 7. Section 51013.5 is added to the Government Code, to read:

51013.5. (a) Newly constructed pipelines, existing pipelines that have been relocated or replaced, that part of a pipeline system that has been relocated or replaced, and pipelines constructed before January 1, 1983, that transport hazardous liquids, shall be tested in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations.

(b) All pipelines not provided with properly sized automatic pressure relief devices shall be hydrostatically tested annually.

(c) All pipelines over 10 years of age and not provided with effective cathodic protection shall be hydrostatically tested every three years.

(d) All pipelines over 10 years of age and provided with effective cathodic protection shall be hydrostatically tested every five years.

(e) Pipelines without evidence of compliance with the hydrostatic test requirements of Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations, and the pipelines specified in subdivisions (c) and (d) which have not been hydrostatically tested at least once since January 1, 1982, shall be brought into compliance by January 1, 1985.

(f) In addition to the above requirements, the State Fire Marshal may require any pipeline subject to this chapter to be subjected to a pressure test, at any time, in the interest of public safety.

(g) Other test methods may be approved by the State Fire Marshal on a individual basis.

SEC. 8. Section 51014 of the Government Code is repealed.

SEC. 9. Section 51014 is added to the Government Code, to read:

51014. (a) The pressure tests required by subdivisions (b), (c), and (d) of Section 51013.5 shall be conducted in accordance with Subpart E (commencing with Section 195.300) of Part 195 of Title 49 of the Code of Federal Regulations, except that an additional four-hour leak test, as specified in subsection (c) of Section 195.302 of Title 49 of the Code of Federal Regulations, shall not be required under subdivision (b), (c), or (d) of Section 51013.5. The State Fire Marshal may authorize the use of liquid petroleum having a flashpoint over 140 degrees Fahrenheit or 60 degrees Centigrade as the test medium. Pressure tests performed under subdivisions (b), (c), and (d) of Section 51013.5 shall not show an hourly loss for each section of the pipeline under test at the time in excess of either 10 gallons or the sum of one gallon and an amount computed at a rate in gallons per mile equivalent to one-tenth of the nominal internal diameter of the pipe in inches.

(b) Test pressure shall be 125 percent of the maximum operating pressure, as defined in paragraphs (1) and (2) of subsection (a) of Section 195.406 of Title 49 of the Code of Federal Regulations. The use of lower test pressures may be allowed only with the prior approval of the State Fire Marshal. Requests for lower test pressures

shall include evidence that the maximum pressure at which the line can be operated can not exceed 80 percent of the requested test pressure, including, but not limited to, evidence of maximum pump shutoff head, the location and setting of full flow relief valves, and evidence of a fail-safe system.

SEC. 10. Section 51014.3 is added to the Government Code, to read:

51014.3. (a) Each pipeline operator shall notify the State Fire Marshal and the local agencies having jurisdiction over the pipeline at least three working days prior to conducting a hydrostatic test which is required by this chapter. The notification shall include all of the following information:

(1) The name, address, and telephone number of the pipeline operator.

(2) The specific location of the pipeline section to be tested and the location of the test equipment.

(3) The date and time the test is to be conducted.

(4) The test medium.

(5) The name and telephone number of the independent testing firm or person responsible for certification of the test results.

(b) The State Fire Marshal, the authorized agents of the State Fire Marshal, and the local agency may observe tests conducted pursuant to this chapter.

SEC. 11. Section 51014.5 is added to the Government Code, to read:

51014.5. (a) When hydrostatic testing is required by Section 51013.5, the test results shall be certified by an independent testing firm or person who is selected from a list, provided by the State Fire Marshal, of independent testing firms or persons approved by the State Fire Marshal.

(b) The results of the tests required by Section 51013.5 shall be submitted by the independent testing firm or person within 30 days after completion of the test to the local agency having jurisdiction and to the State Fire Marshal, who may review the results. The report shall show all of the following information:

(1) The date of the test.

(2) A description of the pipeline tested including a map of suitable scale showing the route of the pipeline.

(3) The results of the test.

(4) Any other test information that may be specifically requested by the State Fire Marshal or by the local agency having jurisdiction.

(c) The State Fire Marshal, the authorized agents of the State Fire Marshal, or local agencies shall not supervise, control, or otherwise direct the testing.

SEC. 12. Section 51015 of the Government Code is amended to read:

51015. (a) Every pipeline operator shall provide the fire department having jurisdiction a map or suitable diagram showing the as-built location of the pipeline, including all block valves or

other mechanical devices situated along the pipeline. Every fire department shall provide to every pipeline operator the fire department's plans and procedures for extinguishing fires involving volatile liquids in open areas, with specific reference to fire-extinguishing foam compounds.

(b) A pipeline operator shall make available to the State Fire Marshal, or any officers, employees, or agents authorized by the State Fire Marshal, upon presentation of appropriate credentials, any records, maps, and written procedures that are required, by this chapter, to be kept by the pipeline operator and which concern accident reporting, design, construction, testing, or operation and maintenance.

The State Fire Marshal, or any officer, employee or agent authorized by the State Fire Marshal, may enter, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of any pipeline operators that are required to be inspected and examined to determine whether the pipeline operator is in compliance with this chapter.

SEC. 13. Section 51016 of the Government Code is amended to read:

51016. Every pipeline operator shall provide the fire department having jurisdiction a pipeline operations contingency plan covering all of the following:

(a) The procedures for conducting normal operations and maintenance activities and the approved means to handle abnormal operations and emergencies.

(b) Its liaison procedure with fire, police, and other emergency authorities for emergency response, including the means of communication and the means of preventing the ignition of vapors released in a pipeline rupture.

(c) A pipeline testing, maintenance, and repair record plan.

(d) The operator's personnel training procedures for firefighting and emergency equipment use.

(e) An identification of the specific actions which will be taken upon discovering a spill or break.

(f) Any information which the fire department having jurisdiction may request.

(g) Any other information the State Fire Marshal may, by regulation, require.

SEC. 14. Section 51018 of the Government Code is amended to read:

51018. (a) Every break, explosion, or fire involving a pipeline, including a pipeline otherwise exempted by paragraphs (1) to (6), inclusive, of subdivision (a) of Section 51010.5, and including a pipeline undergoing testing, shall be immediately reported to the local agency or fire department having jurisdiction.

(b) The local agency or fire department having jurisdiction shall immediately notify the State Fire Marshal of any break, fire, or explosion, including pipelines undergoing testing, involving a

pipeline, including a pipeline otherwise exempted by paragraphs (1) to (6), inclusive, of subdivision (a) of Section 51010.5 which is within its jurisdiction.

SEC. 15. Section 51018.5 is added to the Government Code, to read:

51018.5. The State Fire Marshal may authorize a local agency to carry out the enforcement provisions of this chapter if the State Fire Marshal determines that the local agency can satisfactorily carry out those provisions. A local agency so authorized shall receive from the State Fire Marshal the fees collected by the State Fire Marshal pursuant to Section 51019, when appropriated by the Legislature, to pay for the expenses incurred by the local agency in enforcing this chapter.

SEC. 16. Section 51018.6 is added to the Government Code, to read:

51018.6. (a) The State Fire Marshal shall adopt regulations for conducting enforcement proceedings pursuant to this section. These regulations shall include provisions for the service and the content of the notice of probable violation, response options, conduct of hearings, issuing of the final order, petitions for reconsideration and compromise of penalties, and shall be consistent with the procedures specified in Sections 190.207 to 190.215, inclusive, and Section 190.227 of Title 49 of the Code of Federal Regulations.

(b) If the State Fire Marshal determines, pursuant to the regulations adopted pursuant to subdivision (a), that a person has violated this chapter or any regulation adopted pursuant thereto, that person is subject to a civil penalty of not more than one thousand dollars ($1,000) for each day that violation persists, except that the maximum civil penalty shall not exceed two hundred thousand dollars ($200,000) for any related series of violations.

(c) The amount of the penalty shall be assessed by the State Fire Marshal pursuant to the regulations adopted pursuant to subdivision (a). In determining the amount of the penalty, the State Fire Marshal shall consider the nature, circumstances, and gravity of the violation and, with respect to the person found to have committed the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, any good faith attempts to achieve compliance, ability to pay the penalty, and any other matters as justice may require.

(d) A civil penalty assessed under subdivision (b) may be recovered in an action brought by the Attorney General on behalf of the state. Prior to referring the penalty action to the Attorney General, the State Fire Marshal may accept an offer to compromise the amount of the assessed penalty pursuant to the regulations adopted pursuant to subdivision (a).

(e) The State Fire Marshal shall deposit all civil penalties assessed pursuant to this section in the Local Training Account in the California Hazardous Liquid Pipeline Safety Fund. The money in the Local Training Account is available, upon appropriation by the

Legislature, to the State Fire Marshal, who shall use the money for providing hazardous liquid fire suppression training to local fire departments.

SEC. 17. Section 51018.7 is added to the Government Code, to read:

51018.7. Any person who willfully and knowingly violates any provision of this chapter or a regulation issued pursuant thereto shall, upon conviction, be subject, for each offense, to a fine of not more than twenty-five thousand dollars ($25,000), imprisonment for a term not to exceed five years, or both.

SEC. 18. Section 51018.8 is added to the Government Code, to read:

51018.8. The State Fire Marshal may issue orders directing compliance with this chapter or any regulations adopted pursuant thereto. The State Fire Marshal shall specify in the order the particular action which is required of the person issued the order.

SEC. 19. Section 51019 of the Government Code is repealed.

SEC. 20. Section 51019 is added to the Government Code, to read:

51019. The State Fire Marshal may assess and collect from every pipeline operator an annual fee for the purpose of carrying out this chapter. The State Fire Marshal may assess this fee for expenses which will be incurred during the following year. A pipeline operator shall pay this fee when billed by the State Fire Marshal. The State Fire Marshal may impose a delinquency fee of 10 percent of the annual fee if the pipeline operator does not pay the fee within 60 days after receipt of the bill, and, in addition, the pipeline operator shall pay interest on that portion of its annual fee not paid within 60 days at the rate of 15 percent per annum from the date of receipt of the bill until paid. The total amount of the fee collected shall not exceed the actual expenses incurred, or the estimated expenses which will be incurred, by the State Fire Marshal, or of the local agency when authorized by the State Fire Marshal to act as the agent of the State Fire Marshal, in carrying out this chapter. The determination of the total costs which a local agency incurs when acting as an agent of the State Fire Marshal shall not exceed the actual costs thereof.

SEC. 21. Section 51019.1 is added to the Government Code, to read:

51019.1. (a) There is hereby created the California Hazardous Liquid Pipeline Safety Fund, consisting of the Local Training Account, the Operations Account, and the Local Agency Reimbursement Account.

(b) All fees collected pursuant to Section 51019 shall be deposited in the Operations Account. The money in the account is available, upon appropriation by the Legislature, to the State Fire Marshal for the purpose of carrying out this chapter.

SEC. 22. Section 51020 of the Government Code is repealed.

SEC. 23. Section 51020 is added to the Government Code, to read:

51020. The State Fire Marshal may assess and collect from every pipeline operator an annual fee for the local agency's expenses

directly related to carrying out this chapter. The State Fire Marshal may impose a delinquency fee of 10 percent of the annual fee if the pipeline operator fails to pay the fee within 60 days after receipt of the bill for the fee, plus interest as provided in Section 51019. The State Fire Marshal shall deposit the collected fees in the Local Agency Reimbursement Account in the California Hazardous Liquid Pipeline Safety Fund. The money in the account is available upon appropriation by the Legislature to the State Fire Marshal for the purpose of reimbursing local agencies for the expenses directly related to carrying out this chapter.

SEC. 24. 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 (1) 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 (2) 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. 25. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

Due to the need to protect the public health and safety from the threat of fires and explosions from hazardous liquid pipelines, it is necessary that this act take effect immediately.

CHAPTER 1223

An act to amend Sections 200, 204, 300, 311, 402, and 403 of, to add Sections 402.5 and 15533 to, and to add Chapter 3 (commencing with Section 15611) to Title 2 of, to repeal Chapter 2 (commencing with Section 15511) of Title 2 of, and to repeal, add, and renumber Chapter 3 (commencing with Section 15700) of Title 2 of, the Corporations Code, and to amend Section 12209 of the Government Code, and to repeal Section 1 of Chapter 807 of the Statutes of 1981, relating to corporations.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 200 of the Corporations Code is amended to read:

200. (a) One or more natural persons, partnerships, associations or corporations, domestic or foreign, may form a corporation under this division by executing and filing articles of incorporation.

(b) If initial directors are named in the articles, each director named in the articles shall sign and acknowledge the articles; if initial directors are not named in the articles, the articles shall be signed by one or more persons described in subdivision (a) who thereupon are the incorporators of the corporation.

(c) The corporate existence begins upon the filing of the articles and continues perpetually, unless otherwise expressly provided by law or in the articles.

SEC. 2. Section 204 of the Corporations Code is amended to read:

204. The articles of incorporation may set forth:

(a) Any or all of the following provisions, which shall not be effective unless expressly provided in the articles:

(1) Granting, with or without limitations, the power to levy assessments upon the shares or any class of shares;

(2) Granting to shareholders preemptive rights to subscribe to any or all issues of shares or securities;

(3) Special qualifications of persons who may be shareholders;

(4) A provision limiting the duration of the corporation's existence to a specified date;

(5) A provision requiring, for any or all corporate actions (except as provided in Section 303, subdivision (b) of Section 402.5, subdivision (c) of Section 708 and Section 1900) the vote of a larger proportion or of all of the shares of any class or series, or the vote or quorum for taking action of a larger proportion or of all of the directors, than is otherwise required by this division;

(6) A provision limiting or restricting the business in which the corporation may engage or the powers which the corporation may exercise or both;

(7) A provision conferring upon the holders of any evidences of indebtedness, issued or to be issued by the corporation, the right to vote in the election of directors and on any other matters on which shareholders may vote;

(8) A provision conferring upon shareholders the right to determine the consideration for which shares shall be issued.

(9) A provision requiring the approval of the shareholders (Section 153) or the approval of the outstanding shares (Section 152) for any corporate action, even though not otherwise required by this division.

Notwithstanding this subdivision, in the case of a close corporation any of the provisions referred to above may be validly included in a shareholders' agreement. Notwithstanding this subdivision, bylaws may require for all or any actions by the board the affirmative vote of a majority of the authorized number of directors. Nothing contained in this subdivision shall affect the enforceability, as between the parties thereto, of any lawful agreement not otherwise contrary to public policy.

(b) Reasonable restrictions upon the right to transfer or hypothecate shares of any class or classes or series, but no restriction shall be binding with respect to shares issued prior to the adoption

of the restriction unless the holders of such shares voted in favor of the restriction.

(c) The names and addresses of the persons appointed to act as initial directors.

(d) Any other provision, not in conflict with law, for the management of the business and for the conduct of the affairs of the corporation, including any provision which is required or permitted by this division to be stated in the bylaws.

SEC. 3. Section 300 of the Corporations Code is amended to read:

300. (a) Subject to the provisions of this division and any limitations in the articles relating to action required to be approved by the shareholders (Section 153) or by the outstanding shares (Section 152), or by a less than majority vote of a class or series of preferred shares (Section 402.5), the business and affairs of the corporation shall be managed and all corporate powers shall be exercised by or under the direction of the board. The board may delegate the management of the day-to-day operation of the business of the corporation to a management company or other person provided that the business and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the board.

(b) Notwithstanding subdivision (a) or any other provision of this division, but subject to subdivision (c), no shareholders' agreement, which relates to any phase of the affairs of a close corporation, including but not limited to management of its business, division of its profits or distribution of its assets on liquidation, shall be invalid as between the parties thereto on the ground that it so relates to the conduct of the affairs of the corporation as to interfere with the discretion of the board or that it is an attempt to treat the corporation as if it were a partnership or to arrange their relationships in a manner that would be appropriate only between partners. A transferee of shares covered by such an agreement which is filed with the secretary of the corporation for inspection by any prospective purchaser of shares, who has actual knowledge thereof or notice thereof by a notation on the certificate pursuant to Section 418, is bound by its provisions and is a party thereto for the purposes of subdivision (d). Original issuance of shares by the corporation to a new shareholder who does not become a party to the agreement terminates the agreement, except that if the agreement so provides it shall continue to the extent it is enforceable apart from this subdivision. The agreement may not be modified, extended or revoked without the consent of such a transferee, subject to any provision of the agreement permitting modification, extension or revocation by less than unanimous agreement of the parties. A transferor of shares covered by such an agreement ceases to be a party thereto upon ceasing to be a shareholder of the corporation unless the transferor is a party thereto other than as a shareholder. An agreement made pursuant to this subdivision shall terminate when the corporation ceases to be a close corporation, except that if

the agreement so provides it shall continue to the extent it is enforceable apart from this subdivision. This subdivision does not apply to an agreement authorized by subdivision (a) of Section 706.

(c) No agreement entered into pursuant to subdivision (b) may alter or waive any of the provisions of Sections 158, 417, 418, 500, 501, and 1111, subdivision (e) of Section 1201, Sections 2009, 2010, and 2011, or of Chapters 15 (commencing with Section 1500), 16 (commencing with Section 1600), 18 (commencing with Section 1800), and 22 (commencing with Section 2200). All other provisions of this division may be altered or waived as between the parties thereto in a shareholders' agreement, except the required filing of any document with the Secretary of State.

(d) An agreement of the type referred to in subdivision (b) shall, to the extent and so long as the discretion or powers of the board in its management of corporate affairs is controlled by such agreement, impose upon each shareholder who is a party thereto liability for managerial acts performed or omitted by such person pursuant thereto that is otherwise imposed by this division upon directors, and the directors shall be relieved to that extent from such liability.

(e) The failure of a close corporation to observe corporate formalities relating to meetings of directors or shareholders in connection with the management of its affairs, pursuant to an agreement authorized by subdivision (b), shall not be considered a factor tending to establish that the shareholders have personal liability for corporate obligations.

SEC. 4. Section 311 of the Corporations Code is amended to read:

311. The board may, by resolution adopted by a majority of the authorized number of directors, designate one or more committees, each consisting of two or more directors, to serve at the pleasure of the board. The board may designate one or more directors as alternate members of any committee, who may replace any absent member at any meeting of the committee. The appointment of members or alternate members of a committee requires the vote of a majority of the authorized number of directors. Any such committee, to the extent provided in the resolution of the board or in the bylaws, shall have all the authority of the board, except with respect to:

(a) The approval of any action for which this division also requires shareholders' approval (Section 153) or approval of the outstanding shares (Section 152).

(b) The filling of vacancies on the board or in any committee.

(c) The fixing of compensation of the directors for serving on the board or on any committee.

(d) The amendment or repeal of bylaws or the adoption of new bylaws.

(e) The amendment or repeal of any resolution of the board which by its express terms is not so amendable or repealable.

(f) A distribution (Section 166), except at a rate, in a periodic amount or within a price range set forth in the articles or determined

by the board.

(g) The appointment of other committees of the board or the members thereof.

SEC. 5. Section 402 of the Corporations Code is amended to read:

402. (a) A corporation may provide in its articles for one or more classes or series of shares which are redeemable, in whole or in part, (1) at the option of the corporation or (2) to the extent and upon the happening of one or more specified events, and not otherwise except as herein provided. A corporation may provide in its articles for one or more classes or series of preferred shares which are redeemable, in whole or in part, (1) as specified above, (2) at the option of the holder, or (3) upon the vote of at least a majority of the outstanding shares of the class or series to be redeemed. An open end investment company registered under the United States Investment Company Act of 1940 may, if its articles so provide, issue shares which are redeemable at the option of the holder at a price approximately equal to the shares' proportionate interest in the net assets of the corporation and a shareholder may compel redemption of such shares in accordance with their terms.

(b) Any such redemption shall be effected at such price or prices, within such time and upon such terms and conditions as are stated in the articles. When the articles permit partial redemption of a class or series of shares, the articles shall prescribe the method of selecting the shares to be redeemed, which may be pro rata, by lot, at the discretion of, or in a manner approved by, the board or upon such other terms as are specified in the articles.

(c) No redeemable common shares, other than (1) shares issued by an open end investment company registered under the United States Investment Company Act of 1940, (2) shares of a corporation which has a license or franchise from a governmental agency to conduct its business or is a member corporation of a national securities exchange registered under the United States Securities Exchange Act of 1934, which license, franchise or membership is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it, or (3) shares of a professional corporation, as defined in Part 4 (commencing with Section 13400) of Division 3 of Title 1, shall be issued or redeemed unless the corporation at the time has outstanding a class of common shares that is not subject to redemption.

(d) Any redemption by a corporation of its shares shall be subject to the provisions of Chapter 5 (commencing with Section 500). Nothing in this section shall prevent a corporation from creating a sinking fund or similar provision for, or entering into an agreement for, the redemption or purchase of its shares to the extent permitted by Chapter 5, but unless such purchase or redemption is permitted under Chapter 5, the holder of shares to be so purchased or redeemed shall not become a creditor of the corporation.

SEC. 6. Section 402.5 is added to the Corporations Code, to read:

402.5. The rights, preferences, privileges, and restrictions granted to or imposed upon a class or series of preferred shares (Section 176) the designation of which includes either the word "preferred" or the word "preference" may:

(a) Notwithstanding paragraph (9) of subdivision (a) of Section 204, include a provision requiring a vote of a specified percentage or proportion of the outstanding shares of the class or series that is less than a majority of the class or series to approve any corporate action, except where the vote of a majority or greater proportion of the class or series is required by this division, regardless of restrictions or limitations on the voting rights thereof.

(b) Notwithstanding paragraph (5) of subdivision (a) of Section 204, provide that in addition to the requirement of subdivision (a) of Section 1900 the corporation may voluntarily wind up and dissolve only upon the vote of a specified percentage (which shall not exceed 66⅔ percent) of such class or series.

(c) Provide that Section 502 or 503 not apply in whole or in part with respect to distributions on shares junior to the class or series.

SEC. 7. Section 403 of the Corporations Code is amended to read:

403. (a) When so provided in the articles, a corporation may issue shares convertible within such time or upon the happening of one or more specified events and upon such terms and conditions as are stated in the articles:

(1) At the option of the holder or automatically upon either the vote of at least a majority of the outstanding shares of the class or series to be converted or upon the happening of one or more specified events, into shares of any class or series; or

(2) If it is a corporation which has a license or franchise from a governmental agency to conduct its business or a member corporation of a national securities exchange registered under the United States Securities Exchange Act of 1934, the license, franchise or membership of which is conditioned upon some or all of the holders of its stock possessing prescribed qualifications, to the extent necessary to prevent the loss of such license, franchise or membership or to reinstate it, at the option of the corporation, into shares of any class or series or into any other security of the corporation.

(b) Unless otherwise provided in the articles, a corporation may issue its debt securities convertible into other debt securities or into shares of the corporation within such time or upon the happening of one or more specified events and upon such terms and conditions as are fixed by the board.

SEC. 8. Section 15533 is added to the Corporations Code, to read:

15533. This chapter shall be of no force and effect except as provided by Article 11 (commencing with Section 15710) or Article 12 (commencing with Section 15721) of Chapter 3.

SEC. 9. Chapter 2 (commencing with Section 15511) of Title 2 of the Corporations Code, as added by Chapter 807 of the Statutes of

1981 and as amended by Chapter 997 of the Statutes of 1982, is repealed.

SEC. 10. Chapter 3 (commencing with Section 15611) is added to Title 2 of the Corporations Code, to read:

CHAPTER 3. CALIFORNIA REVISED LIMITED PARTNERSHIP ACT

Article 1. General Provisions

15611. 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.

(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 15621, 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 15641.

(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 15674.

(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.

15612. 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 15613 or (2) the name of any limited partnership which has previously filed a certificate pursuant to Section 15621 or of a foreign limited partnership registered pursuant to Section 15692.

(d) May not contain the words "bank," "insurance," "trust" or "trustee."

15613. Any applicant may, upon payment of the fee prescribed therefor in the Government Code, obtain from the Secretary of State a certificate of reservation of any name not prohibited by Section 15612, and upon the issuance of the certificate the name stated therein shall be reserved for a period of 60 days. The Secretary of State shall not, however, issue certificates reserving the same name for two or more consecutive 60-day periods to the same applicant or for the use or benefit of the same person; nor shall consecutive reservations be made by or for the use or benefit of the same person of names so similar as to fall within the prohibitions of subdivision (c) of Section 15612.

15614. Each limited partnership shall continuously maintain in this state each of the following:

(a) An office, which may be, but need not be, a place of its business in this state, at which shall be kept the records required by Section 15615 to be maintained.

(b) An agent for service of process on the limited partnership.

15615. Each limited partnership shall keep at the office referred to in subdivision (a) of Section 15614 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.

15616. A limited partnership may carry on any business that a partnership without limited partners may carry on except the banking, insurance or trust company business.

15617. Except as otherwise provided in the partnership agreement, a partner may lend money to and transact other business with the limited partnership and, subject to other applicable law, has the same rights and obligations with respect thereto as a person who is not a partner.

Article 2. Formation: Certificate of Limited Partnership

15621. (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 15614, 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 15692, 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.

15622. (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 15633 or a certificate of amendment pursuant to Section 15625 or a certificate of dissolution pursuant to paragraph (1) of subdivision (a) of Section 15623 or a certificate of cancellation of certificate of limited partnership pursuant to paragraph (1) of subdivision (b) of Section 15623, 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).

15623. (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 15681), unless the event causing the dissolution is that specified in subdivision (c) of Section 15681, in which case the limited partners conducting the winding up of the partnership affairs under Section 15683 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 15681), unless the event causing the dissolution is that specified in subdivision (c) of Section 15681, in which case the limited partners conducting the winding up of the partnership affairs under Section 15683 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.

15624. (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 15621 shall be executed by all general partners, unless filed by a limited partner pursuant to Section 15633.

(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 15625.

(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 15623.

(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 15623.

(5) A certificate filed by a limited partner pursuant to Section 15633 or a certificate of amendment filed by a limited partner pursuant to Section 15625 or a certificate of dissolution filed by a limited partner pursuant to paragraph (1) of subdivision (a) of Section 15623 or a certificate of cancellation of certificate of limited partnership filed by a limited partner pursuant to paragraph (1) of subdivision (b) of Section 15623 shall be signed by the limited partner.

(b) Any person may execute a certificate referred to in Section 15621 or any certificate of amendment thereto by an attorney-in-fact.

15625. 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.

15626. Upon the filing of a certificate of amendment in the office of the Secretary of State, the certificate of limited partnership is amended as set forth therein, and upon the filing of a certificate of cancellation of certificate of limited partnership pursuant to paragraph (1) of subdivision (b) of Section 15623, the certificate of limited partnership is canceled.

15627. (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 15622 or (2) for a foreign limited partnership until an amendment to the application for registration is filed pursuant to Section 15695.

(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 15621 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 15622 designating a new agent or (B) the foreign limited partnership shall promptly file an amendment to the application for registration pursuant to Section 15695.

15628. 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.

Article 3. Limited Partners

15631. (a) After the filing of a certificate referred to in Section 15621, 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 15674.

(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 15615.

15632. (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) An election to continue the business of the limited partnership other than under the circumstances described in subparagraph (I) or (J) of this paragraph (5).

(H) The admission of a general partner other than under the circumstances described in subparagraph (I) or (J) of this paragraph (5).

(I) The admission of a general partner or an election to continue the business of the limited partnership after a general partner ceases to be a general partner other than by removal where there is no remaining or surviving general partner.

(J) The admission of a general partner or an election to continue the business of the limited partnership after the removal of a general partner where there is no remaining or surviving general partner.

(6) Winding up the partnership pursuant to Section 15683.

(7) Executing and filing a certificate pursuant to Section 15633 or a certificate of amendment pursuant to Section 15625 or a certificate of dissolution pursuant to paragraph (1) of subdivision (a) of Section 15623 or a certificate of cancellation of certificate of limited partnership pursuant to paragraph (1) of subdivision (b) of Section 15623.

(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 15612, 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.

15633. (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.

15634. (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 15615.

(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 15615.

(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.

15635. (a) The Attorney General, upon complaint that a limited partnership is failing to comply with the provisions of Section 15634, 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 15621, 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 15634 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.

15636. 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 (G), inclusive, of paragraph (5) of subdivision (b) of Section 15632 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 subparagraphs (H) and (I) of paragraph (5) of subdivision (b) of Section 15632. Notwithstanding any other provision of this chapter or any provision of the partnership agreement to the contrary, the actions specified in that subparagraph (H) may only be taken by the affirmative vote of a majority in interest of the limited partners, and the actions specified in that subparagraph (I) may only be taken by the affirmative vote of all of the limited partners.

15637. (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 15632 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.

Article 4. General Partners

15641. Unless otherwise provided in the partnership agreement, after the filing of a certificate referred to in Section 15621, 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 15636 or (b) with the written consent of each partner in accordance with the provisions of subdivision (c) of Section 15681.

15642. 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.

15643. (a) Except as otherwise provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the rights and powers and is subject to the restrictions of a partner in a partnership without limited partners.

(b) Except as provided in this chapter, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to persons other than the partnership and the other partners. Except as provided in this chapter or in the partnership agreement, a general partner of a limited partnership has the liabilities of a partner in a partnership without limited partners to the partnership and to the other partners.

15644. A general partner of a limited partnership may make contributions to the limited partnership and share in the profits and losses of, and in distributions from, the limited partnership as a general partner. A general partner also may make contributions, and share in the profits and losses and distributions, as a limited partner, if the general partner's interest as a limited partner is separately designated in the partnership agreement. A person who is both a general partner and a limited partner has the rights and powers, and is subject to the restrictions and liabilities, of a general partner and, except as otherwise provided in the partnership agreement, also has the powers, and is subject to the restrictions, of a limited partner to the extent of his participation in the limited partnership as a limited partner.

Article 5. Finance

15651. 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.

15652. Notwithstanding the compromise of a claim referred to in subdivision (c) of Section 15636, a person whose claim against a limited partnership arises before the receipt of notice of the compromise may enforce the original obligation.

15653. The profits and losses of a limited partnership shall be allocated among the partners in the manner provided in the partnership agreement. If the partnership agreement does not so provide, profits and losses shall be allocated in proportion to the contributions of each partner.

15654. 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.

Article 6. Distributions and Withdrawals

15661. 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 15666, to the extent and at the times or upon the happening of the events specified in the partnership agreement.

15662. (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 15642 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.

15663. A limited partner may withdraw from a limited partnership at the time or upon the happening of events specified in the partnership agreement. If the partnership agreement does not specify the time or the events upon the happening of which a limited partner may withdraw or a definite time for the dissolution and winding up of the limited partnership, a limited partner may withdraw upon not less than six months' prior written notice to each general partner at his address set forth in the certificate.

15664. 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.

15665. Subject to Section 15684, 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.

15666. 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 15636, 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.

Article 7. Assignment of Partnership Interests

15671. An interest in a limited partnership is personal property and a partner has no interest in specific partnership property.

15672. Except as otherwise provided in the partnership agreement, a limited partnership interest is assignable in whole or in part. An assignment of a limited partnership interest does not dissolve a limited partnership or entitle the assignee to become or to exercise any rights of a partner. An assignment entitles the assignee to receive, to the extent assigned, only the distributions to which the assignor would be entitled. A limited partner remains a partner upon assignment of all or part of the limited partner's limited partnership interest, subject to the assignee becoming a limited partner pursuant to subdivision (a) of Section 15674.

15673. On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the limited partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the limited partnership interest. This chapter does not deprive any partner of the benefit of any exemption laws applicable to the partner's limited partnership interest.

15674. (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 15651). 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 15622, and Sections 15652 and 15666.

15675. 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.

Article 8. Dissolution

15681. 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 15642 (other than by removal), 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 partner or partners, if any, and such partner or partners do so, or (2) all partners agree in writing to continue the business of the limited partnership and to admit one or more general partners.

(d) Entry of a decree of judicial dissolution under Section 15682.

15682. 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 interest of the complaining partners.

15683. 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 15681, 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.

15684. 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 15661, 15664 or 15665.

(b) Except as provided in the partnership agreement, to partners and former partners in satisfaction of liabilities for distributions under Sections 15661, 15664, and 15665.

(c) To partners in accordance with their rights under the partnership agreement and Section 15636.

15685. 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 15623.

Article 9. Foreign Limited Partnerships

15691. Subject to Section 15694, (a) the laws of the state or country under which a foreign limited partnership is organized govern its organization and internal affairs and the liability of its limited partners, and (b) a foreign limited partnership may not be denied registration by reason of any difference between those laws and the laws of this state.

15692. 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 15627.

(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.

15693. 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 15612.

15694. If the limited partners of a foreign limited partnership residing in this state represent 25 percent or more of the interests of limited partners of that partnership, those limited partners shall be entitled to all information and rights provided in Section 15634.

15695. 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.

15696. A foreign limited partnership may cancel its registration by filing with the Secretary of State a certificate of cancellation signed and acknowledged by a general partner. A cancellation does not terminate the authority of the Secretary of State to accept service of process on the foreign limited partnership with respect to causes of action arising out of the transaction of business in this state.

15697. (a) A foreign limited partnership transacting intrastate business in this state may not maintain any action, suit, or proceeding in any court of this state until it has registered in this state.

(b) Any foreign limited partnership which transacts intrastate business in this state without registration is subject to a penalty of twenty dollars ($20) for each day that such unauthorized intrastate business is transacted, up to a maximum of ten thousand dollars ($10,000). An action to recover such penalty may be brought, and any recovery shall be paid, as provided in Section 2258.

(c) The failure of a foreign limited partnership to register in this

state does not impair the validity of any contract or act of the foreign limited partnership or prevent the foreign limited partnership from defending any action, suit, or proceeding in any court of this state.

(d) A limited partner of a foreign limited partnership is not liable as a general partner of the foreign limited partnership solely by reason of its having transacted intrastate business in this state without registration.

(e) A foreign limited partnership, transacting intrastate business in this state without registration, appoints the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this state.

15698. The Attorney General may bring an action to restrain a foreign limited partnership from transacting intrastate business in this state in violation of this article.

Article 10. Class Actions and Derivative Actions

15701. 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.

15702. (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.

Article 11. Transition Provisions

15710. Notwithstanding the provisions of Section 15712 or 15713, any limited partnership organized under the laws of this state or any foreign limited partnership existing on March 1, 1984, which has recorded its existence with a county recorder, may file under the provisions of Section 15712 or 15713 as provided therein for the purpose of permitting the Secretary of State to establish a name availability file for the inplementation of the provisions of Section 15612 on July 1, 1984, and to establish other files pertaining to these limited partnerships to permit an orderly implementation of the California Revised Limited Partnership Act on July 1, 1984. Filings with the Secretary of State under the provisions of this section may only be made on or after March 1, 1984. Those documents acceptable for filing shall be filed as of July 1, 1984.

15711. Except as provided in Section 15712, this Chapter 3 shall not apply to any limited partnership organized under the laws of this state and existing on the effective date, which shall continue to be governed by the law previously applicable to it.

15712. A limited partnership organized under the laws of this state and existing on the effective date:

(a) (1) Shall be governed by the law previously applicable to it unless it elects to be goverend by this chapter instead of by the law previously applicable to it. Such 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.

(2) Shall file a certificate as provided by subdivision (a) of Section 15621, including therein the date that the limited partnership filed under the law previously applicable to it, and shall thereafter be governed by the provisions of Article 2 (commencing with Section 15621), and not by the law previously applicable to it relating to filing requirements.

(3) Shall not be subject to the requirement of subdivision (a) of Section 15612 or to the limitations of subdivision (c) of Section 15612

if a certificate as required by paragraph (2) of this subdivision is filed prior to July 1, 1985.

(4) May not maintain any action, suit, or proceeding in any court of this state until it has filed a certificate as required by paragraph (2) of this subdivision.

(b) To the extent that the provisions of the certificate filed under the law previously applicable to a limited partnership governed the rights and obligations of the partners and the limited partnership among each other, those provisions will continue to govern those rights and obligations except (i) as they may subsequently be affected by amendments to the partnership agreement or by the terms of a certificate filed pursuant to paragraph (6) of subdivision (a) of Section 15621 or by the terms of a certificate of amendment filed pursuant to subdivision (c) of Section 15622, and (ii) for the effect upon those rights and obligations of an election to be governed by this chapter pursuant to this Section 15712.

15713. (a) A foreign limited partnership existing on the effective date shall not be subject to the limitations of subdivision (c) of Section 15612 if a certificate of registration referred to in Section 15693 is issued prior to July 1, 1985.

(b) The provisions of subdivision (b) of Section 15697 shall not be operative until July 1, 1985.

15714. As used in this article, "effective date" means July 1, 1984.

Article 12. Miscellaneous

15721. This chapter may be cited as the California Revised Limited Partnership Act.

15722. In any case not provided for in this chapter, the provisions of the Uniform Partnership Act, Chapter 1 (commencing with Section 15001), govern.

15723. All provisions of this chapter and all provisions that may hereafter be added to this chapter may be altered from time to time or repealed and all rights of partners are subject to this reservation.

SEC. 11. Chapter 3 (commencing with Section 15700) of Title 2 of the Corporations Code is repealed.

SEC. 12. Chapter 4 (commencing with Section 15800) is added to Title 2 of the Corporations Code, to read:

CHAPTER 4. PROCESS AGENTS FOR CERTAIN FOREIGN CORPORATIONS

15800. Every partnership, other than a commercial or banking partnership established and transacting business in a place without the United States, which is domiciled without this state and has no regular place of business within this state, shall, within 40 days from the time it commences to do business in this state, file a statement in the office of the Secretary of State in accordance with Section 24003 designating some natural person or corporation as the agent of

the partnership upon whom process issued by authority of or under any law of this state directed against the partnership may be served. A copy of such designation, duly certified by the Secretary of State, is sufficient evidence of such appointment.

Such process may be served in the manner provided in subdivision (e) of Section 24003 on the person so designated, or, in the event that no such person has been designated, or if the agent designated for the service of process is a natural person and cannot be found with due diligence at the address stated in the designation, or if such agent is a corporation and no person can be found with due diligence to whom the delivery authorized by subdivision (e) of Section 24003 may be made for the purpose of delivery to such corporate agent, or if the agent designated is no longer authorized to act, then service may be made by personal delivery to the Secretary of State, Assistant Secretary of State or a Deputy Secretary of State of the process, together with a written statement signed by the party to the action seeking such service, or by his attorney, setting forth the last-known address of the partnership and a service fee of five dollars ($5). The Secretary of State shall forthwith give notice of such service to the partnership by forwarding the process to it by registered mail, return receipt requested, at the address given in the written statement.

Service on the person designated, or personal delivery of the process and statement of address together with a service fee of five dollars ($5) to the Secretary of State, Assistant Secretary of State or a Deputy Secretary of State, pursuant to this section is a valid service on the partnership. The partnership so served shall appear within 30 days after service on the person designated or within 30 days after delivery of the process to the Secretary of State, Assistant Secretary of State or a Deputy Secretary of State.

SEC. 13. Section 12209 of the Government Code, as amended by Chapter 418 of the Statutes of 1983, is amended to read:

12209. Upon the filing of any document as to a corporation or pursuant to any provision of the Corporations Code (other than pursuant to Chapter 3 (commencing with Section 15611) of Title 2 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, 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. 14. Section 1 of Chapter 807 of the Statutes of 1981 is repealed.

SEC. 15. Sections 8 to 13, inclusive, of this act shall become operative on July 1, 1984.

SEC. 16. The Legislture finds and declares as follows:

(a) The legislative intent in enacting Chapter 997 of the Statutes of 1982 was that the provisions of the Corporations Code and Government Code adopted by Sections 1 through 43 thereof would substitute for the corresponding provisions of the Corporations Code

and Government Code adopted by Chapter 807 of the Statutes of 1981 upon such latter chapter becoming operative and hence, that the provisions adopted by Sections 1 through 43 would not be operative until that operative date.

(b) The current legislative intent in enacting Sections 8 to 13, inclusive, of this act is to restate the limited partnership law as intended by Chapter 807 of the Statutes of 1981 and Chapter 997 of the Statutes of 1982 and to make certain numbering and other changes thereto.

CHAPTER 1224

An act to amend Sections 29373.1, 29375.1, 66463, 66464, 66492, and 66493 of the Government Code, to amend Sections 75.13, 155.20, 482, 1637, 1640.1, 1641.1, 2611.4, 2910.5, 3456, 3511, 3693, 3710, 4102, 4656.5, 4831, 4831.5, 4985, 4985.2, 5097 and 5830 of, to add Sections 532.1, 3731.1 and 4653.7 to, to repeal and add Sections 2611.5, 2635, and 4837.5 to, and to repeal Sections 532.5, 534.5, 2910.6, and 3701.5 of, the Revenue and Taxation Code, relating to public finance.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 29373.1 of the Government Code is amended to read:

29373.1. The cash difference fund when authorized by resolution of the board of supervisors may be used to increase the amount tendered to any county officer so as to equal the amount due the county, for any account when a difference in an amount of ten dollars ($10) or less exists. A record of that use shall be maintained, containing sufficient information to identify the account, identify the person making the payment which was not equal to the amount due the county, and show the amount of the difference.

SEC. 2. Section 29375.1 of the Government Code is amended to read:

29375.1. When an amount paid to any county officer exceeds the amount due the county for any account, and such excess does not exceed ten dollars ($10), the officer may deposit the excess in the overage fund in the county treasury. If the excess is not so deposited, it shall be refunded to the person making the payment.

SEC. 3. Section 66463 of the Government Code is amended to read:

66463. Except as otherwise provided for in this code, the procedure for processing, approval, conditional approval, or disapproval and filing of parcel maps and modifications thereof shall be as provided by local ordinance. The provisions of Sections 66477.1,

66477.2, and 66477.3 relating to dedications and offers of dedication on final maps shall apply to dedications and offers of dedications on parcel maps.

Whenever a local agency provides, by ordinance, for the approval, conditional approval, or disapproval of parcel maps by the county engineer, surveyor, or other designated official, the local agency may also, by ordinance, provide that the officer may accept or reject dedications and offers of dedication that are made by certificate on the map.

SEC. 4. Section 66464 of the Government Code is amended to read:

66464. (a) After the approval by the city of a final map of a subdivision or a parcel map, the city clerk shall transmit the map to the clerk of the county board of supervisors for ultimate transmittal to the county recorder.

(b) After the approval by the county of a final or parcel map of a subdivision within unincorporated territory, the map shall be transmitted ultimately to the county recorder.

(c) When all certificates and security required under the provisions of Sections 66492 and 66493 have been filed and deposited with the clerk of the board of supervisors and approved by the county, the clerk of the board of supervisors shall certify that the certificates have been filed and deposits have been made and shall transmit the final map to the county recorder.

SEC. 5. Section 66492 of the Government Code is amended to read:

66492. Prior to the filing of the final map or parcel map with the legislative body, the subdivider shall file with the clerk of the board of supervisors of the county in which any part of the subdivision is located, a certificate from the official computing redemptions in any public agency in which any part of the subdivision is located, showing that, according to the records of that office, there are no liens against the subdivision or any part thereof for unpaid, state, county, municipal or local taxes or special assessments collected as taxes, except taxes or special assessments not yet payable.

As to taxes or special assessments collected as taxes which are a lien but not yet payable, the subdivider shall file with the clerk of the board of supervisors a certificate by each proper officer giving his or her estimate of the amount of taxes and assessments which are a lien but not yet payable.

SEC. 6. Section 66493 of the Government Code is amended to read:

66493. (a) Whenever any part of the subdivision is subject to a lien for taxes or special assessments collected as taxes which are not yet payable, the final map or parcel map shall not be recorded until the owner or subdivider executes and files with the clerk of the board of supervisors of the county wherein any part of the subdivision is located, security conditioned upon the payment of all state, county, municipal and local taxes and the current installment of principal

and interest of all special assessments collected as taxes, which at the time the final map is recorded are a lien against the property, but which are not yet payable.

(b) If the land being subdivided is a portion of a larger parcel shown on the last preceding tax roll as a unit, the security for payment of taxes need be only for that sum as may be determined by the county to be sufficient to pay the current and delinquent taxes on the land being subdivided, together with all accrued penalties and costs if those taxes have been or are allowed to become delinquent. Separate assessor's parcel numbers shall be given to the portion of the larger parcel which is not within the proposed subdivision and to the parcel or parcels which are within the proposed subdivision.

If the land being subdivided is sold for taxes, it may be redeemed for the sale without the redemption of the remainder of the larger parcel of which it is a part pursuant to the provisions of the Revenue and Taxation Code as if it were held in ownership separate from and other than the ownership of the remainder.

(c) Whenever land subject to a special assessment or bond which may be paid in full is divided by the line of a lot or parcel of the subdivision, that assessment or bond shall be paid in full, or security shall be filed with the clerk of the board of supervisors, payable to the county as trustee for the assessment bondholders for the payment of the special assessment or bond. This section shall not apply to bonds issued under the provisions of the Improvement Bond Act of 1915.

(d) The amount of security for "taxes" in subdivision (a) or "current taxes" for subdivision (b), shall consider only amounts shown on the regular assessment roll or shown on any supplemental rolls prepared pursuant to Chapter 3.5 (commencing with Section 75) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

SEC. 7.5. Section 75.13 of the Revenue and Taxation Code is amended to read:

75.13. Any supplemental assessment made within one year of the date of the change in ownership or the completion of new construction shall not be deemed to be an escaped assessment subject to Section 4837.5.

SEC. 8. Section 155.20 of the Revenue and Taxation Code is amended to read:

155.20. A county board of supervisors may exempt from property tax all real property with a base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5 and personal property with a full value so low that, if not exempt, the total taxes, special assessments and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

The board shall have no authority to exempt property with a base year value or full value of more than one thousand five hundred dollars ($1,500).

In determining the level of the exemption, the board of supervisors shall determine at what level of exemption the costs of

assessing the property and collecting taxes, assessments and subventions on such property exceeds the proceeds to be collected. The board shall establish the exemption level uniformly for classes of property. In making this determination, the board may consider the total taxes, special assessments and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.

This section does not apply to those real or personal properties enumerated in Section 52.

The exemption authorized by this section shall be adopted by the board on or before the lien date for the fiscal year to which the exemption is to apply and may, at the option of the board, continue in effect for succeeding fiscal years. Any revision or rescission of the exemption shall be adopted by the board on or before the lien date for the fiscal year to which that revision or rescission is to apply.

SEC. 9. Section 482 of the Revenue and Taxation Code is amended to read:

482. (a) If a person or legal entity required to file a statement described in Section 480 fails to do so within 45 days from the date of a written request by the assessor, a penalty of either: (1) one hundred dollars ($100), or (2) 10 percent of the taxes applicable to the new base year value reflecting the change in ownership of the real property or mobilehome, whichever is greater, but not to exceed two thousand five hundred dollars ($2,500) if the failure to file was not willful, shall, except as otherwise provided in this section, be added to the assessment made on the roll. The penalty shall apply for failure to file a complete change in ownership statement notwithstanding the fact that the assessor determines that no change in ownership has occurred as defined in Chapter 2 (commencing with Section 60) of Part 0.5. The penalty may also be applied if after a request the transferee files an incomplete statement and does not supply the missing information upon a second request.

(b) If a person or legal entity required to file a statement described in Section 480.1 or 480.2 fails to do so within 45 days from the date of a written request by the State Board of Equalization, a penalty of 10 percent of the taxes applicable to the new base year value reflecting the change in control or change in ownership of the real property owned by the corporation, partnership, or legal entity, or 10 percent of the current year's taxes on that property if no change in control or change in ownership occurred, shall be added to the assessment made on the roll. The penalty shall apply for failure to file a complete statement notwithstanding the fact that the board determines that no change in control or change in ownership has occurred as defined in subdivision (c) or (d) of Section 64. The penalty may also be applied if after a request the person or legal entity files an incomplete statement and does not supply the missing information upon a second request. That penalty shall be in lieu of the penalty provisions of subdivision (a).

(c) The penalty for failure to file a timely statement pursuant to Sections 480, 480.1, and 480.2 for any one transfer may be imposed only one time, even though the assessor may initiate a request as often as he or she deems necessary.

(d) The penalty shall be added to the roll in the same manner as a special assessment and treated, collected, and subject to the same penalties for the delinquency as all other taxes on the roll in which it is entered.

(1) When the transfer to be reported under this section is of a portion of a property or parcel appearing on the roll during the fiscal year in which the 45-day period expires, the current year's taxes shall be prorated so the penalty will be computed on the proportion of property which has transferred.

(2) Any penalty added to the roll pursuant to this section between March 1 and June 30 may be entered either on the unsecured roll or the roll being prepared. After March 1, the penalty may be added to the current roll only with the approval of the tax collector.

(3) If the property is transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value after the transfer of ownership resulting in the imposition of the penalty and before the enrollment of the penalty, the penalty shall be entered on the unsecured roll in the name of the transferee whose failure to file the change in ownership statement resulted in the imposition of the penalty.

(e) When a penalty imposed pursuant to this section is entered on the unsecured roll, the tax collector may immediately file a certificate authorized by Section 2191.3.

(f) Notice of any penalty added to either the secured or unsecured roll pursuant to this section shall be mailed by the assessor to the transferee at his or her address contained in any recorded instrument or document evidencing a transfer of an interest in real property or mobilehome or at any address reasonably known to the assessor.

SEC. 9.5. Section 532.1 is added to the Revenue and Taxation Code, to read:

532.1. If, before the expiration of the period specified in Section 532 for making an escape assessment, the taxpayer and the assessor have agreed in writing to extend the time for making an assessment, correction, or claim for refund, the assessment may be made at any time prior to the expiration of the period agreed upon. The period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 10. Section 532.5 of the Revenue and Taxation Code is repealed.

SEC. 11. Section 534.5 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 1637 of the Revenue and Taxation Code is amended to read:

1637. Hearings before an assessment hearing officer shall be

conducted pursuant to the provisions of Article 1 (commencing with Section 1601) governing equalization proceedings by a county board of equalization or an assessment appeals board. The assessment hearing officer may conduct hearings on applications where:

(a) The applicant is the assessee and has filed an application under Section 1607;

(b) For counties in which the board of supervisors has not adopted the provisions of Section 1641.1, the total assessed value of the property under consideration, as shown on the current assessment roll, does not exceed one hundred thousand dollars ($100,000); or the property under consideration is a single-family dwelling, condominium or cooperative, or a multiple-family dwelling of four units or less regardless of value; and

(c) The applicant has requested that the hearing be held before an assessment hearing officer.

(d) In addition to subdivisions (a) and (c), the board of supervisors may, by resolution, require the assent of the assessor to hearings before an assessment hearing officer in all cases in which the total assessed value on the current roll of the property under consideration exceeds a sum set by the resolution. However, that requirement shall not apply in cases involving owner-occupied residential property.

SEC. 13. Section 1640.1 of the Revenue and Taxation Code is amended to read:

1640.1. (a) The clerk shall transmit by mail to the protesting party and shall transmit to the county board of equalization or assessment appeals board the hearing officer's report and recommendation on the assessment protest. The protesting party shall be informed that the county board of equalization or the assessment appeals board is not bound by the recommendation of the assessment hearing officer and that he or she or the assessor is entitled to a full hearing before the county board or the assessment appeals board.

(b) The provision of this section shall supersede the provisions of Section 1641 in those counties in which the board of supervisors by resolution adopts the provisions of this section.

SEC. 14. Section 1641.1 of the Revenue and Taxation Code is amended to read:

1641.1. (a) Upon being notified of the recommendation of an assessment hearing officer, the protesting party or the assessor may request the county board of equalization or assessment appeals board to accept or reject the recommendation of the assessment hearing officer. The assessor may request the board to reject the recommendation of the assessment hearing officer. The county board of equalization or assessment appeals board shall, without further testimony, do either of the following:

(1) Accept the recommendation and change the assessed value in accordance with Section 1610.8.

(2) Reject the recommendation and set the application for

reduction for hearing by the local board of equalization.

If a request is not filed with the county board of equalization or assessment appeals board, the protesting party or the assessor may, within 14 days after mailing of the hearing officer's report and recommendation, make application for a hearing before the county board or the assessment appeals board, and the application shall be set for hearing by the county board or the assessment appeals board. The board may consider, but shall not be bound by, the recommendation of the assessment hearing officer.

(b) The provisions of this section shall supersede the provisions of Section 1641 in those counties in which the board of supervisors by resolution adopts the provisions of this section.

SEC. 15. Section 2611.4 of the Revenue and Taxation Code is amended to read:

2611.4. Any county department, officer or employee may refrain from collecting any tax, assessment, penalty or cost, license fees or money owing to the county where the amount to be collected is ten dollars ($10) or less. Nothing in this section shall be construed as releasing any person from the payment of any tax, assessment, penalty or cost, license fee or any other money which is due and owing to the county.

SEC. 16. Section 2611.5 of the Revenue and Taxation Code is repealed.

SEC. 17. Section 2611.5 is added to the Revenue and Taxation Code, to read:

2611.5. The following information shall be included in each county tax bill or in a separate statement accompanying the bill:

(1) The full value of locally assessed property, including assessments made for irrigation district purposes in accordance with Section 26625.1 of the Water Code.

(2) The tax rate required by Article XIII A of the State Constitution.

(3) The rate or dollar amount of taxes levied in excess of the 1-percent limitation to pay for voter-approved indebtedness incurred before June 6, 1978.

(4) The amount of any special taxes and special assessments levied.

(5) The amount of any tax rate reduction pursuant to Section 100 of this code, with the notation: "Tax reduction by (name of jurisdiction)."

(6) The amount of any exemptions. Exemptions reimbursable by the state shall be separately shown.

(7) The total taxes due on the property covered by the bill.

(8) Instructions on tendering payment, including the name and mailing address of the tax collector.

In any year in which all of the assessments on the local secured roll have been raised or lowered as a result of a board order adopted pursuant to Section 18, Article XIII of the California Constitutuion, the full value may be omitted or, if shown, the tax bill shall include

an explanation of the inconsistency of that figure with the equalized value and announced assessment ratio.

SEC. 18. Section 2635 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 2635 is added to the Revenue and Taxation Code, to read:

2635. When the amount of taxes paid exceeds the amount due by more than ten dollars ($10), the tax collector shall send notice of the overpayment to the taxpayer. The notice shall be mailed to the taxpayer's last known address and shall state the amount of overpayment and that a refund claim may be filed pursuant to Chapter 5 (commencing with Section 5096) of Part 9.

SEC. 20. Section 2910.5 of the Revenue and Taxation Code is amended to read:

2910.5. When taxes on unsecured property are paid in cash or whenever a receipt is requested at the time of payment by the person paying the tax, the tax collector shall give a receipt to the person making payment, specifying:

(a) The name of the assessee.

(b) The amount of the assessment.

(c) The amount of tax paid.

(d) The beginning and ending of the fiscal year for which the tax is paid.

SEC. 21. Section 2910.6 of the Revenue and Taxation Code is repealed.

SEC. 22. Section 3456 of the Revenue and Taxation Code is amended to read:

3456. If the payment accepted by the tax collector was wholly in negotiable paper which was not paid on due presentation, the county shall have a claim against the person who attempted payment by the negotiable paper for the cost of the sale. The tax collector shall forthwith return the negotiable paper by registered mail to the person so attempting payment with advice that his or her bid has been voided and the amount of the county's claim.

SEC. 23. Section 3511 of the Revenue and Taxation Code is amended to read:

3511. Not less than 21 days after the first publication of the notice of intent to deed tax-sold property and at least five years after the property was sold to the state, the tax collector shall, without charge, execute a deed in duplicate conveying the property to the state. The county clerk shall take acknowledgment of the deed without charge.

The making of a duplicate deed may be waived by the county recorder if the county has photostatic equipment for the purpose of recordation.

SEC. 24. Section 3693 of the Revenue and Taxation Code is amended to read:

3693. With the exception of sealed bid sale procedures authorized under Section 3692, all sales pursuant to this chapter shall be at public auction to the highest bidder. The amount of the high bid shall be

paid in cash in lawful money of the United States or negotiable paper or any combination thereof which the tax collector specifies.

SEC. 25. Section 3701.5 of the Revenue and Taxation Code is repealed.

SEC. 26. Section 3710 of the Revenue and Taxation Code is amended to read:

3710. In addition to the usual provisions of a deed conveying real property, the deed shall specify all of the following:

(a) That the real property was duly sold and conveyed to the state for nonpayment of taxes which had been legally levied and were a lien on the property.

(b) That the state, through the tax collector, has sold the property in accordance with law.

(c) That no taxing agency objected to the sale. (If a taxing agency did object, state: That (name of each objecting taxing agency) objected to the sale).

(d) The name of the purchaser, the date of sale, and the amount for which the property was sold.

(e) That the property is therefore conveyed to the purchaser according to law.

SEC. 27. Section 3731.1 is added to the Revenue and Taxation Code, to read:

3731.1. The board of supervisors of any county may, by resolution, authorize any county officer to perform on its behalf any act required or authorized to be performed by the board of supervisors under Section 3730, 3730.1, or 3731.

The resolution shall enumerate the section, or those portions of the section, to which the authorization is to apply, and shall specify administrative rules and procedures concerning any act performed under the authorization.

The resolution shall require that the county auditor record each act performed under the authorization. The resolution may provide for review by the board of supervisors of any act performed under the authorization, or for periodic reports to the board of supervisors of any or all acts performed under the authorization, or both.

SEC. 28. Section 4102 of the Revenue and Taxation Code is amended to read:

4102. The amount necessary to redeem shall be paid in lawful money of the United States and is the sum of the following:

(a) The amount of sold taxes.

(b) Delinquent penalties and costs.

(c) Redemption penalties.

(d) A redemption fee of one dollar and fifty cents ($1.50) on each separately valued parcel sold to the state after June 13, 1947, and prior to June 13, 1969. A redemption fee of two dollars ($2) on each separately valued parcel sold to the state after June 12, 1969, and prior to January 1, 1979. A redemption fee of five dollars ($5) on each separately valued parcel sold to the state after January 1, 1979, and prior to January 1, 1984, and a redemption fee of fifteen dollars ($15)

on and after that date.

SEC. 29. Section 4656.5 of the Revenue and Taxation Code is amended to read:

4656.5. All redemption fees collected prior to January 1, 1984, shall be distributed 50 percent to the State of California for deposit in the General Fund and 50 percent to the county that is the situs of the tax-sold land for deposit in its general fund. Redemption fees on property sold to the state on and after January 1, 1984, shall be distributed five dollars ($5) to the State of California for deposit in the General Fund and ten dollars ($10) to the county that is the situs of the tax-sold land for deposit in its general fund.

SEC. 30. Section 4653.7 is added to the Revenue and Taxation Code, to read:

4653.7. Amounts paid as penalties for failure to provide change-in-ownership statements shall be distributed to the county general fund.

This section shall also apply to those penalties when collected from entries on the unsecured roll.

SEC. 31. Section 4831 of the Revenue and Taxation Code is amended to read:

4831. (a) Any error resulting in incorrect entries on the roll may be corrected under this article. The correction may be made at any time after the roll is delivered to the auditor but shall be made within four years after the making of the assessment which is being corrected. This section does not apply to either of the following:

(1) Errors involving the exercise of value judgments.

(2) Escape assessments caused by the assessee's failure to report the information required by Article 2 (commencing with Section 441) of Chapter 3 of Part 2.

If any error referred to in this subdivision is discovered as the result of an audit of a taxpayer's books and records, that error may be corrected at any time prior to the expiration of six months after the completion of the audit.

(b) Taxes which are not a lien or charge on the property assessed may be transferred from the secured roll to the unsecured roll of the corresponding year by the county auditor on order of the board of supervisors with the written consent of their legal counsel. These taxes shall be collected in the same manner as other delinquent taxes on the unsecured roll and shall be subject to delinquent penalties in the same manner as taxes transferred to the unsecured roll under Section 5090. The statute of limitations for the collection of those taxes shall commence to run from the date of transfer.

(c) Any liens created pursuant to this section prior to the effective date of Chapter 1190 of the Statutes of 1973 (January 1, 1974), shall have the force, effect and priority of a judgment lien, and shall continue for 10 years from the time of recording of the certificate authorized under this section unless sooner released or otherwise discharged.

SEC. 31.5. Section 4831.5 of the Revenue and Taxation Code is

amended to read:

4831.5. When it can be ascertained by the assessor from an audit of an assessee's books of account or other papers that there has been a defect of description or clerical error of the assessee in his property statement or in other information or records furnished to the assessor which caused the assessor to assess taxable tangible property which should not have been assessed or to assess it at a substantially higher valuation than he would have entered on the roll if the information had been correctly furnished to the assessor, the error on the roll may be corrected under this article at any time after the roll is delivered to the auditor by the clerk of the county board and within the time allowed for assessing property which has escaped assessment as provided in Sections 532 and 532.1. The extent and character of the change to be made on the roll shall be certified to the auditor by the assessor.

SEC. 32. Section 4837.5 of the Revenue and Taxation Code is repealed.

SEC. 33. Section 4837.5 is added to the Revenue and Taxation Code, to read

4837.5. (a) Notwithstanding any other provision of law, taxes due on escape assessments for prior fiscal years, where the error causing the escape assessment was not that of the assessee, or taxes due because of the correction of any assessor's error for prior fiscal years under this article, where that error was made without fault on the part of the assessee, may be paid over a four-year period at the option of the assessee if: (1) the additional tax is over one hundred dollars ($100) and (2) a written request for installment payment is filed by the assessee with the tax collector prior to the time the second installment of taxes on the secured roll becomes delinquent, or by the last day of the month following the month in which the tax bill is mailed, whichever is later. The tax collector shall include with the property tax bill a notice of the payment provisions of this section.

If payment by installments is requested, 20 percent of the tax shall be paid no later than the deadline for filing the written request. In each succeeding fiscal year, the assessee shall pay, before the delinquency date of the second installment of current taxes on the secured roll, a sum at least sufficient to reduce the outstanding balance of the tax by 20 percent of the original amount.

No penalties shall be charged so long as installment payments are made timely. If any installment is not paid timely, or if the property on the secured roll becomes tax-deeded, or if taxes for the property on the unsecured roll are not paid before becoming delinquent, the balance of the tax remaining to be paid shall immediately become due and payable, no further installment payments for that escape assessment or correction shall be authorized, and the remaining balance of the tax shall become subject to all of the provisions of this division applicable to delinquent taxes.

The tax collector shall maintain records listing the current status

of all the installment accounts authorized under this section and the fact of each installment account shall be entered on the current roll.

SEC. 34. Section 4985 of the Revenue and Taxation Code is amended to read:

4985. Any delinquent penalty, cost, redemption penalty, interest, or redemption fee, heretofore or hereafter attached, shall upon satisfactory proof submitted by the tax collector, the auditor, or the assessor, be canceled by the auditor on order of the board of supervisors with the written consent of the district attorney upon a showing that the delinquent penalty, cost, redemption penalty, interest, or redemption fee has attached because of an error of the tax collector, the auditor, or the assessor, or because of their inability to complete valid procedures initiated prior to the delinquency date, and upon the further showing that payment of the corrected or additional amount was made within 30 days from the date that the correction was entered on the roll or abstract record.

SEC. 35. Section 4985.2 of the Revenue and Taxation Code is amended to read:

4985.2. Any penalty, costs, or other charges resulting from tax delinquency may be canceled by the auditor or the tax collector with the approval of the board of supervisors upon a finding that (1) the failure to make a timely payment is due to reasonable cause and circumstances beyond the taxpayer's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, provided the principal payment for the proper amount of the tax due is made no later than June 30 of the fiscal year following the fiscal year in which the tax became delinquent, or, (2) there was an inadvertent error in the amount of payment made by the taxpayer, provided the principal payment for the proper amount of the tax due is made within 10 days after the notice of shortage is mailed by the tax collector.

SEC. 35.5. Section 5097 of the Revenue and Taxation Code is amended to read:

5097. (a) No order for a refund under this article shall be made, except on a claim:

(1) Verified by the person who paid the tax, his guardian, executor, or administrator.

(2) Filed within four years after making of the payment sought to be refunded or within one year after the mailing of notice as prescribed in Section 2635, or the period agreed to as provided in Section 532.1, whichever is later.

(b) An application for a reduction in an assessment filed pursuant to Section 1603 shall also constitute a sufficient claim for refund under this section if the applicant states in the application that the application is intended to constitute a claim for refund. If the applicant does not so state, he may thereafter and within the period provided in paragraph (2) of subdivision (a) file a separate claim for refund of taxes extended on the assessment which applicant applied to have reduced pursuant to Section 1603 or Section 1604.

(c) If an application for equalization of an escape assessment is filed pursuant to Section 1603, a claim may be filed on any taxes resulting from the escape assessment or the original assessment to which the escape relates within the period provided in paragraph (2) of subdivision (a) or within 60 days from the date the board of equalization makes its final determination on the application, whichever is later.

SEC. 36. Section 5830 of the Revenue and Taxation Code is amended to read:

5830. The assessment of any mobilehome shall be entered on the secured roll and shall be subject to all provisions of law applicable to taxes on the secured roll, provided, however:

(a) If the taxes on any mobilehome are not a lien on real property of the owner of the mobilehome pursuant to Section 2188.1, 2189, or 2189.3 and are unpaid when any installment of taxes on the secured roll becomes delinquent, the tax collector may use the procedures applicable to the collection of delinquent taxes on the unsecured roll; and

(b) If the taxes on any mobilehome which are not a lien on real property of the owner of the mobilehome remain unpaid at the time set for the sale of the mobilehome on the secured roll to the state for delinquent taxes, the taxes on the mobilehome, together with any penalties and costs which may have accrued thereon while on the secured roll, shall be transferred to the unsecured roll.

(c) The taxes on mobilehomes may be paid in two installments as provided in Chapter 2.1 (commencing with Section 2700) of Part 5, notwithstanding the provisions of Section 2605 and whether or not the board of supervisors has adopted a resolution in accordance with Section 2700.

SEC. 37. 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 1225

An act to amend Sections 66730, 66796.32, and 66796.34 of, to amend and renumber Sections 66784.1 and 66784.3 of, to add Section 66796.42 to, and to repeal and add Section 66780.2 of, the Government Code, relating to solid waste, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 66730 of the Government Code is amended to read:

66730. It is the intent of the Legislature that the primary responsibility for adequate solid waste management and planning shall rest with local government. with the state bearing primary responsibility for the development and maintenance of the state policy for solid waste management and the State Solid Waste Resource Recovery Program. Local solid waste management and planning shall conform to the validly approved solid waste management plan prepared pursuant to Section 66780.1.

SEC. 2. Section 66780.2 of the Government Code is repealed.

SEC. 3. Section 66780.2 is added to the Government Code, to read:

66780.2. (a) Notwithstanding any other provision of law, a county solid waste management plan may reserve, or may tentatively identify, a site as a potential site or as an expansion of an existing solid waste facility, unless the city or county has determined that, for local planning purposes, the site is an incompatible land use, pursuant to its local land use authority.

(b) A county may reserve a site expansion or a potential site for a solid waste facility in the county solid waste management plan only if the site is consistent with the applicable city or county general plan. A site is consistent with the general plan if all of the following requirements are met:

(1) The city or county has adopted a general plan which complies with the requirements of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7.

(2) The site expansion or potential site is designated in the applicable city or county general plan as a site expansion or as a potential site for a solid waste facility.

(3) The land uses authorized in the applicable city or county general plan adjacent to or near the site expansion or potential site are compatible with the establishment or expansion of the site for a solid waste facility.

(c) A county may tentatively identify a site expansion or a potential site in the solid waste management plan for a solid waste facility even though that identification of the site is not consistent with the applicable city or county general plan. A site in a solid waste management plan is tentative until it is made consistent with the applicable city or county general plan.

(d) A site tentatively identified as a site expansion, or as a potential site, for a solid waste facility shall be removed from the county solid waste management plan for either of the following reasons:

(1) A city or county fails or has failed to make the findings that the site is consistent with the general plan or has made a finding that the site should not be used for a solid waste facility.

(2) The board refuses to concur in the issuance of a solid waste facility permit for the site because of the city or county's failure to make the finding that the site is consistent with the general plan.

(e) The removal of a tentatively identified site from the county solid waste management plan, pursuant to subdivision (d), shall be accomplished by either one of the following methods:

(1) The county shall remove the site at the time of the next plan amendment or revision.

(2) The local agency having jurisdiction over the location of the site shall request the county to remove the site designation at the time of the next plan amendment or revision.

(f) For purposes of this section and Sections 66796.32, 66796.34, 66796.41, and 66796.42, "city" and "county" means the city or county in which the solid waste facility, or the site for the solid waste facility, is located.

SEC. 4. Section 66784.1 of the Government Code is amended and renumbered to read:

66796.41. (a) Except as provided in Section 66796.42, the board shall not concur in the issuance of a permit, as provided in subdivision (d) of Section 66796.32, for the establishment or expansion of a site for any solid waste facility unless the city or county in which the site is located makes a finding that the establishment or expansion of the site is consistent with the city's or county's applicable general plan. This finding shall not be made unless the city or county has adopted a general plan which complies with the provisions of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7.

(b) A site for any new or expanded solid waste facility shall be found to be consistent with the general plan only if both of the following requirements are met:

(1) The site is designated, in the applicable city or county general plan, as a site for any solid waste facility, or as a potential site for a solid waste facility, except that if an area is zoned for the siting of a solid waste facility which is designed to produce an alternative source of energy through the conversion of solid waste material into energy, synthetic fuels, or reusable materials, the city or county shall deem this area to be in compliance with this requirement for the purposes of siting this type of solid waste facility.

(2) The land uses authorized adjacent to and near the site are compatible with the establishment or expansion of the site.

(c) A city or county shall not authorize land uses adjacent to or near a site for any solid waste facility designated in the applicable city or county general plan if the land uses would restrict or preclude the establishment of a solid waste facility or expansion of the facility or site.

(d) Notwithstanding any other provision of law, a land use permit authorizing the establishment or expansion of a site for any solid waste facility shall not be issued unless the city or county in which the site is located has held a public hearing on this matter pursuant

to Section 65355.

(e) Nothing in this section shall limit the authority of a city or county to amend its general plan to remove the designation of a potential site for the establishment or expansion of a solid waste facility.

(f) For purposes of this chapter, a new solid waste facility is one which has never had, or does not currently have, a solid waste facilities permit.

SEC. 5. Section 66784.3 of the Government Code, as added by Chapter 1333 of the Statutes of 1982, is amended and renumbered to read:

66796.43. Any solid waste facility, located outside the exterior boundaries of any city, shall be maintained in compliance with the flammable clearance provisions of Chapter 5 (commencing with Section 4371) of Part 2 of Division 4 of the Public Resources Code.

SEC. 6. Section 66796.32 of the Government Code is amended to read:

66796.32. (a) Upon receipt of an application or report required by Section 66796.30, the enforcement agency shall submit a copy of the application or report to the board within seven days.

(b) The enforcement agency shall not issue, modify, or revise a solid waste facilities permit unless it has, at least 45 days in advance, provided the board and the applicant with a copy of the proposed permit, which shall contain the terms and conditions the enforcement agency proposes to establish and unless the city or county in which the site is located has issued a land use permit authorizing the establishment or expansion of the site.

(c) Prior to forwarding a copy of the proposed solid waste facilities permit, the enforcement agency shall certify all of the following findings:

(1) The proposed solid waste facilities permit is consistent with the county solid waste management plan prepared pursuant to Section 66780.1.

(2) The proposed solid waste facilities permit is consistent with the standards adopted by the board.

(3) The city or county has found the proposed solid waste facility, if for a new or expanded site, consistent with its general plan pursuant to Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7.

(d) A decision to issue or not issue the permit shall be made by the enforcement agency within 120 days of the time application is filed unless waived by the applicant.

(e) The board shall, in writing, concur or object to the issuance, modification, or revision of any solid waste facilities permit within 40 days of the board's receipt of any proposed solid waste facilities permit submitted under subdivision (b). If the board determines that the permit would not be consistent with the county solid waste management plan or the state standards or if the city or county has not found, or has failed to make the finding that, the proposed solid

waste facility is consistent with the applicable general plan, pursuant to Section 66796.41, the board shall object to provisions of the permit, and shall submit those objections to the enforcement agency for its consideration. If the board fails to concur or object in writing within that 40 days, it is deemed to have concurred in the issuance of the permit as submitted to it.

SEC. 7. Section 66796.34 of the Government Code is amended to read:

66796.34. (a) Upon compliance with the provisions of Section 66796.32 and after any necessary hearing, the enforcement agency may issue, modify, or revise a solid waste facilities permit if the board has concurred in the permit.

(b) The permit shall contain all terms and conditions which the enforcement agency determines to be appropriate for the operation of the solid waste facility. The operator shall comply with all terms and conditions of the permit.

(c) Within 15 days of issuing, modifying, or revising a solid waste facilities permit, the enforcement agency shall transmit to the disposal site owner and the person who is or proposes to become an operator of a transfer/processing station or a disposal site, or both, a copy of the solid waste facilities permit.

SEC. 8. Section 66796.42 is added to the Government Code, to read:

66796.42. (a) Notwithstanding Sections 66780, 66796.32, and 66796.41, the board may concur in the issuance of and the enforcement agency may issue, modify, or revise, a permit for the expansion of a solid waste facility without making a finding that the expansion of the site on which the facility is located is consistent with the city's or county's general plan, if the expansion meets either of the following criteria:

(1) The expansion would occur within property which was owned on or before January 1, 1983, by the current owner of the site of the solid waste facility which was receiving solid waste pursuant to a solid waste facilities permit on January 1, 1983, and the property was designated on or before January 1, 1983, to be used for expansion of the site in the county solid waste management plan.

(2) The expansion would improve the means of using the site, increase the capacity of the site, or enhance the appearance of the site, the site is undivided by a public road and operated by a local agency, and the site expansion plans have been reviewed and studied by the local agency which operates the site, prior to January 1, 1983, the board has examined, and not rejected, this review and study and the county or city has not determined that, for local planning purposes, the site is an incompatible land use, pursuant to its local land use authority.

(b) Notwithstanding any other provision of law, the expansion of a solid waste facility site is subject to the planning and zoning authority of the city or county in which it is located, pursuant to Chapter 3 (commencing with Section 65100) and Chapter 4

(commencing with Section 65800) of Division 1 of Title 7.

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. 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. This act is an urgency statute necessary for the immediate preservation of 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 allow existing solid waste facilities to continue operations in compliance with the law, thereby protecting public health and safety, it is necessary that this act take effect immediately.

CHAPTER 1226

An act to amend Section 1379 of, and to add Sections 330, 331, 333, 334, and 1383 to, the Unemployment Insurance Code, relating to the Employment Development Department, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. The Legislature finds and declares:

(a) That automation of the field office and central operations of the Employment Development Department would provide a benefit to the citizens of California by improving services and reducing costs.

(b) That the unemployment and employment services programs in most of the department's field offices currently are not automated.

(c) That sufficient data is often not available to make prudent management decisions on the cost-effective automation of the department's programs.

(d) That greater coordination between the department and the State Office of Information Technology would result in the more efficient and timely automation of the department's field office operations.

(e) That the citizens of the state would benefit if the department more actively seeks opportunities to automate its operations and coordinate with other state or public agencies to share use of technologies and facilities.

SEC. 2. The Legislature further finds and declares:

(a) That overpayments of unemployment insurance benefits by the department create an unnecessary and detrimental burden on California's tax-paying employers and employees.

(b) That unemployment insurance overpayments could be significantly reduced through the automation of program activities, changes in statute, and modification of departmental procedures.

SEC. 3. Section 330 is added to the Unemployment Insurance Code, to read:

330. The Director of Employment Development shall prepare an annual report on the comprehensive automation of the department in accordance with the guidelines published and maintained in the State Administrative Manual. The report shall be transmitted to the Legislative Analyst, legislative committees on Finance and Insurance, Economic Development and New Technologies, Industrial Relations, Labor and Employment, Finance, and Ways and Means of the Senate and Assembly, Department of Finance, and the Governor, on August 31st of each calendar year. The report shall do all of the following:

(a) Identify all operations, including unemployment and employment services programs, which would benefit from initial or further automation. For each operation so identified, the report shall:

(1) Estimate the one-time and on-going costs of automation.

(2) Project the benefits of automation, including improvements in services, reductions in personnel and operating costs, and continued or ceased utilization of data processing systems provided by the state's Health and Welfare Agency Data Center.

(3) Identify how the personnel and costs savings will be used, transferred, or otherwise accounted for.

(b) Establish a three-year plan for the automation of all the operations identified in subdivision (a). The plan shall be updated annually. For all operations identified in subdivision (a), the plan shall:

(1) Determine priorities for automation with specific attention to unemployment and employment services programs in the department's field offices.

(2) Establish time-lines for automation.

(3) Identify existing or needed funds for automation.

(c) Explain, when requesting approval for an automation proposal from the Department of Finance, the method by which the proposal will be evaluated for its costs and benefits. The method for each automation proposal may differ.

(d) Identify opportunities for the department to interface and coordinate with other state entities, including the Health and Welfare Agency Data Center, in the utilization of automated data

processing and telecommunication technologies.

(e) Not necessarily be in addition to or replace any reports now submitted by the director to the State Office of Information Technology.

SEC. 4. Section 331 is added to the Unemployment Insurance Code, to read:

331. (a) Twenty days prior to the release of the report identified in Section 330, the director shall submit it to the State Office of Information Technology, which shall review and comment on it. These comments shall be attached to the report by the director and distributed with it.

(b) When commenting on the report, the State Office of Information Technology shall include, but not be limited to, an assessment of whether:

(1) The requirements for the report have been met.

(2) The department has sufficiently sought to identify further opportunities for automation and coordination.

(3) The method described pursuant to subdivision (c) of Section 330:

(A) Takes into full account the benefits realized from improved services.

(B) Utilizes accurate and timely data that reflect actual personnel and equipment costs of individual operations performed by automated equipment.

(C) Insures that centralized processing and personnel costs are accurately reflected in the costs identified in subparagraph (B).

(D) Fully evaluates the relative costs and benefits of each component of the automated versus manual operations.

SEC. 5. Section 333 is added to the Unemployment Insurance Code, to read:

333. (a) The department shall place a high priority on the automation of the Benefit Payment Control Program, specifically including, but not limited to, automating the ledger and collection functions.

(b) An automated system for the Benefit Payment Control Program shall include a function which provides for the automatic issuance of monthly collection letters to unemployment insurance claimants who have received benefit overpayments.

(c) Personnel savings from automation of the Benefit Payment Control Program, notwithstanding any other provision of law, shall be redirected to the processing of additional willful overpayment cases.

SEC. 6. Section 334 is added to the Unemployment Insurance Code, to read:

334. The director shall pursue the following methods to increase the collection of unemployment insurance benefit overpayments:

(a) Developing administrative or automated procedures to insure that field offices appropriately refer cases to the central office for the timely interception of a claimant's state tax refund.

(b) Modifying the automated overpayment detection system so that it will identify more overpayments.

(c) Increasing the number of potential overpayments which are reviewed by the department.

(d) Working with the Legislature and the Governor to adequately staff the Benefit Payment Control Program.

SEC. 7. Section 1379 of the Unemployment Insurance Code is amended to read:

1379. The Director of Employment Development, subject to the provisions of this article, may do any or all of the following in the recovery of overpayments of unemployment compensation benefits:

(a) File a civil action against the liable person for the recovery of the amount of the overpayment within one year after any of the following:

(1) The mailing or personal service of the notice of overpayment determination if the person affected does not file an appeal to a referee.

(2) The mailing of the decision of the referee if the person affected does not initiate a further appeal to the appeals board.

(3) The date of the decision of the appeals board.

(b) Offset the amount of the overpayment received by the liable person against any amount of benefits to which he may become entitled under this division within six years of the date of the mailing or personal service of the notice of overpayment determination.

SEC. 8. Section 1383 is added to the Unemployment Insurance Code, to read:

1383. Notwithstanding any other provision of law to the contrary, the Franchise Tax Board shall aid the department in the recovery of overpayments of unemployment compensation benefits pursuant to Section 1379 for up to six years after the date of the mailing or personal service of the notice of overpayment determination.

SEC. 9. The Auditor General shall audit the Employment Development Department two years after the effective date of this act to determine if the intent and mandates of this act have been carried out.

SEC. 10. There is hereby appropriated from the Unemployment Administration Fund to the Auditor General an amount sufficient for the Auditor General to audit the Employment Development Department to determine if the intent and mandates of this act have been carried out by the department.

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 facilitate the provisions for computerization by the Employment Development Department at the earliest possible time and thereby save money by reducing costs, it is necessary for this act to take effect immediately.

CHAPTER 1227

An act to amend Section 33471.5 of, and to add Sections 33476, 33476.3, and 33476.5 to, the Health and Safety Code, and to amend Sections 7, 10, and 13 of, and to add Section 13.5 to, Chapter 995 of the Statutes of 1982, relating to fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 33471.5 of the Health and Safety Code is amended to read:

33471.5. After the refunding has occurred as provided in Section 33471, not less than 20 percent of all taxes which are allocated to the redevelopment agency pursuant to subdivision (b) of Section 33670 for redevelopment projects merged pursuant to this article shall be used by the agency for the purposes set forth in Section 33334.2, provided that such taxes shall first be used for the payment of principal, interest, and premium, if any, under the bond resolution or resolutions providing for the issuance of the refunding bonds and providing necessary reserves for such refunding bonds, but only to the extent that such refunding is necessary to refinance existing bonded obligations.

SEC. 2. Section 33476 is added to the Health and Safety Code, to read:

33476. Notwithstanding any other provision in this article, except the provisions of Section 33471.5, for the purpose of allocating taxes pursuant to Section 33670 which are subject to the provisions of this article, redevelopment project areas under the jurisdiction of the redevelopment agency of the City of San Bernardino designated Meadowbrook/Central City, Central City East, and Central City South, are hereby merged into one contiguous project areas designated Central City. Each constitutent project area so merged, shall continue under its own redevelopment plan for the longest term of the three plans, but, except as otherwise provided in this article, taxes attributable to each project area merged pursuant to this section which are allocated to the redevelopment agency pursuant to Section 33670 shall be allocated, as provided in subdivision (b) of such section, to the entire merged project area for the purpose of paying the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed, or otherwise) incurred by the redevelopment agency to finance or refinance, in whole or in part, such merged redevelopment project.

SEC. 3. Section 33476.3 is added to the Health and Safety Code, to read:

33476.3. If the redevelopment agency has, prior to merger of

redevelopment project areas pursuant to Section 33476, incurred any indebtedness on account of a constituent project area so merged, taxes attributable to such area which are allocated to the agency pursuant to subdivision (b) of Section 33670 shall be first used to comply with the terms of any bond resolution or other agreement pledging such taxes from such constituent project area until a refunding has occurred which satisfies the terms of such resolution or agreement.

SEC. 4. Section 33476.5 is added to the Health and Safety Code, to read:

33476.5. The Legislature finds and declares that the merger of the project areas specified in Section 33476 in the City of San Bernardino is necessary to prevent a default on the outstanding bonds of the Meadowbrook/Central City Project due to the drastic reduction in property taxes caused by the adoption of Article XIII A to the Constitution. This project area is already substantially redeveloped, making it unlikely that further redevelopment can be used to increase the tax base. The Redevelopment Agency of the City of San Bernardino has already had to call on the state for support of its bonded debt. This is an undesirable burden on the state which can be avoided by merging the two contiguous project areas into the combined Central City Project so that the tax increment from the buildout in Central City East and Central City South Project areas, when added to the tax increment of the Meadowbrook/Central City Project Area, resulting from combining the project areas, can serve the debt of all three projects, or the debt as refunded, thus preventing an undesirable default, or, in lieu thereof, further draws on the funds of the state.

SEC. 5. Section 7 of Chapter 995 of the Statutes of 1982 is amended to read:

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. The trust revenues may be combined with nontrust revenues for purposes of a plan designed to benefit the granted lands and adjacent uplands without imposition of the trust upon the uplands or the improvements thereon so long as it can be demonstrated on an accounting basis that an amount, including financing costs, equal to or greater than the trust revenues is, or has been, expended on the granted lands pursuant to that plan.

SEC. 6. Section 10 of Chapter 995 of the Statutes of 1982 is amended to read:

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 or other obligations for the

improvement or operation of the granted lands or in furtherance of trust activities on 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. 7. Section 13 of Chapter 995 of the Statutes of 1982 is amended to read:

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 projected 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.

SEC. 8. Section 13.5 is added to Chapter 995 of the Statutes of 1982, to read:

Sec. 13.5. The Legislature hereby finds and declares that Parcels C and D of the land heretofore purported to be granted to the City of Brisbane by Chapter 995 of the Statutes of 1982 had ceased to be tidelands or submerged lands prior to the grant and prior to February 22, 1980, and pursuant to the holding of the California Supreme Court in City of Berkeley v. Superior Court, 26 Cal. 3d 515 (1980), concerning filled lots no longer subject to tidal action and originally conveyed by the Board of Tideland Commissioners, the lots are free from all trusts and restrictions imposed thereon by any of the provisions of the granting act or the public trust.

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:

The City of Brisbane and the Redevelopment Agency of the City of Brisbane are engaged in a program of public works, including the extension and construction of streets, marinas, and improvements in connection therewith, and the financing thereof, which affect the lands described in this act, and the act is designed to provide recreation facilities. In order for this program to proceed promptly and without undue and costly delay, it is necessary that this act take effect as soon as possible.

For the foregoing reasons and in order to extend local control over the issuance of revenue bonds for industrial development and to effectuate local planning in this regard and to aid the redevelopment agency of San Bernardino County in expediting its redevelopment projects and to prevent default of certain projects, it is necessary that this act take effect immediately.

CHAPTER 1228

An act to amend Sections 15432, 15438.5, and 15454 of the Government Code, and to amend Section 436.2 of the Health and Safety Code, relating to health, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered,

incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A "community clinic" is a clinic 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 community 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 income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

"Health facility" includes the following facilities, if operated in

conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 1.3. Section 15432 of the Government Code, as amended by Section 1 of this act, is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations

and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A "community clinic" which is a clinic 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 community 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 income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

"Health facility" shall include a clinic which is described in subdivision (1) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any

combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 1.7. Section 15432 of the Government Code, as amended by Section 1 of this act, is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which

provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A "community clinic" which is a clinic 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 community 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 income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

"Health facility" shall include a clinic which is described in subdivision (1) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 2. Section 15438.5 of the Government Code is amended to read:

15438.5. (a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivisions (b) and (c), only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of such tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects for county health facilities, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance

of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist counties to arrange projects which will meet the financial feasibility standards developed under this part.

(c) The authority may issue revenue bonds pursuant to this part to finance the development of a multilevel facility, or any portion thereof, including the portion licensed as a residential facility for the elderly, if the skilled nursing facility, intermediate care facility, or general acute care hospital is operated or provided by an eligible participating health institution.

SEC. 3. Section 15454 of the Government Code is amended to read:

15454. Notwithstanding Section 15453, bonds issued pursuant to this part shall not be subject to the limitation of, or be considered or included in computing the amount of outstanding bonds for purposes of, Section 15453 if issued to finance any of the following:

(a) A project which is, or is for, a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the project under that section).

(b) A project which is, or is for, an adult day health center.

(c) A project which is, or is for, a multilevel facility.

SEC. 4. Section 436.2 of the Health and Safety Code is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any such buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of such construction), provisions for working capital, reserves for principal and interest and for extensions,

enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of such construction or acquisition.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Section 4 of Article XVI, of the California Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center and a multilevel facility. Except for facilities for the developmentally disabled or a multilevel facility, "health facility" does not include any institution furnishing primarily domiciliary care.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the definition set forth in this subdivision.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a

mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or 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 its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, or local hospital district.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

(s) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, which provides adult day health care, as defined under subdivision (a) of Section 1570.7.

(t) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this subdivision, means a person 62 years of age or older.

SEC. 4.5. Section 436.2 of the Health and Safety Code as amended by Section 4 of this act, is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any such buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such

buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of such construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of such construction or acquisition.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Section 4 of Article XVI of the California Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center and a multilevel facility. Except for facilities for the developmentally disabled or a multilevel facility, "health facility" does not include any institution furnishing primarily domiciliary care.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the definition set forth in this subdivision.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with

periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or 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 its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, local hospital district, or the California Health Facilities Authority.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

(s) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, which provides adult day health care, as defined under subdivision (a) of Section 1570.7.

(t) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this subdivision, means a person 62 years of age or older.

SEC. 5. (a) Section 1.3 of this bill incorporates amendments to Section 15432 of the Government Code proposed by both this bill and AB 1181. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) each bill amends Section 15432 of the Government Code, (3) SB 464 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1181, in which case Section 15432 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1181, at which time Section 1.3 of this bill shall become operative and Section 1.7 shall not become operative.

(b) Section 1.7 of this bill incorporates amendments to Section 15432 of the Government Code proposed by both this bill, AB 1181, and SB 464. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) all three bills amend Section 15432 of the Government Code, and (3) this bill is enacted after AB 1181 and SB 464, in which case Section 15432 of the Government Code, as

amended by Section 1 of this bill, shall remain operative only until the operative date of AB 1181 and SB 464, at which time Section 1.7 of this bill shall become operative and Section 1.3 shall not become operative.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 436.2 of the Health and Safety Code proposed by both this bill and SB 464. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) each bill amends Section 436.2 of the Health and Safety Code, and (3) this bill is enacted after SB 464, in which case Section 436.2 of the Health and Safety Code, as amended by Section 4 of this bill, shall remain operative only until the operative date of SB 464, at which time Section 4.5 of this bill shall become operative.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the benefits of this act to be available as soon as possible, it is necessary for this act to take effect immediately.

CHAPTER 1229

An act to add Section 783 to the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. The Legislature finds and declares as follows:

(a) Gas and electrical corporations providing utility service operate as monopolies under the authority of the State of California and have an obligation to provide extensions of service to new residential, commercial, agricultural, and industrial customers under reasonable terms and conditions.

(b) Rules governing the extension of gas and electric service to new residential, commercial, agricultural, and industrial customers must strike a balance between the interests of new residential, commercial, and industrial customers in obtaining essential utility services without undue economic burden and the interests of existing utility customers in ensuring that extension of service to new customers does not result in an unreasonable impact on utility rates.

(c) The Public Utilities Commission has recently proposed implementing new rules regarding the extension of gas and electric utility service to new residential, commercial, and industrial

customers.

(d) Pursuant to those proposed rules, new customers will pay a far greater portion of the cost of the extension of facilities than is the case under the existing rules.

(e) The impact of the proposed rules is especially severe with respect to agricultural and other rural customers who frequently require utility service at points distant from existing utility systems.

(f) Implementation of the proposed rules will also dramatically affect California's construction and housing industry since cost increases to developers may either render projects no longer economically viable or result in increased costs to ultimate purchasers and lessees of such a magnitude as to significantly diminish the availability of affordable housing.

(g) The alleged positive effect, if any, of the proposed rules on rates to existing ratepayers has not been shown to exist beyond a miniscule level, if at all.

(h) Because of the impact on a broad segment of California's economy occasioned by the proposed rules, it is imperative that the Public Utilities Commission study their impact on these segments of California's economy as well as on new and existing ratepayers.

(i) The proposed rules should not be placed into effect during the pendency of the commission's study.

(j) It is the intent of the Legislature, in enacting this act, to prevent the Public Utilities Commission from approving any changes in the existing line and service extension regulations until there has been further study of the issue in accordance with this act.

(k) It is the further intent of the Legislature that the provisions of the following advice letters submitted to the commission shall not be affected by the enactment of this act:

(1) No. 891-E by Pacific Gas and Electric Company effective July 7, 1982.

(2) No. 594-E by Southern California Edison Company effective August 25, 1982.

(3) No. 153 by Pacific Power and Light Company effective December 22, 1982.

SEC. 2. Section 783 is added to the Public Utilities Code, to read:

783. (a) The commission shall continue to enforce the rules governing the extension of service by gas and electrical corporations to new residential, commercial, agricultural, and industrial customers in effect on January 1, 1982, except that the commission shall amend the existing rules to permit applicants for service to install extensions in accordance with subdivision (f). Except for periodic review provisions of existing rules, and amendments to permit installations by an applicant's contractor, the commission shall not investigate amending these rules or issue any orders or decisions which amend these rules, unless the investigation or proceeding for the issuance of the order or decision is conducted pursuant to subdivision (b).

(b) Whenever the commission institutes an investigation into the

terms and conditions for the extension of services provided by gas and electrical corporations to new or existing customers, or considers issuing an order or decision amending those terms or conditions, the commission shall make written findings on all of the following issues:

(1) The economic effect of the line and service extension terms and conditions upon agriculture, residential housing, mobilehome parks, rural customers, urban customers, employment, and commercial and industrial building and development.

(2) The effect of requiring new or existing customers applying for an extension to an electrical or gas corporation to provide transmission or distribution facilities for other customers who will apply to receive line and service extensions in the future.

(3) The effect of requiring a new or existing customer applying for an extension to an electrical or gas corporation to be responsible for the distribution of, reinforcements of, relocations of, or additions to that gas or electrical corporation.

(4) The economic effect of the terms and conditions upon projects, including redevelopment projects, funded or sponsored by cities, counties, or districts.

(5) The effect of the line and service extension regulations, and any modifications to them, on existing ratepayers.

(6) The effect of the line and service extension regulations, and any modifications to them, on the consumption and conservation of energy.

(7) The extent to which there is cost-justification for a special line and service extension allowance for agriculture.

(c) The commission shall request the assistance of appropriate state agencies and departments in conducting any investigation or proceeding pursuant to subdivision (b), including, but not limited to, the Business, Transportation and Housing Agency, the Department of Food and Agriculture, the Department of Consumer Affairs, the Department of Real Estate, the Department of Housing and Community Development, and the Department of Economic and Business Development.

(d) Any new order or decision issued pursuant to an investigation or proceeding conducted pursuant to subdivision (b) shall become effective on July 1 of the year which follows the year when the new order or decision is adopted by the commission, so as to ensure that the public has at least six months to consider the new order or decision.

(e) The commission shall conduct any investigation or proceeding pursuant to subdivision (b) within the commission's existing budget, and any state agency or department which is requested by the commission to provide assistance pursuant to subdivision (c) shall also provide the assistance within the agency's or department's existing budget.

(f) An electrical or gas corporation shall permit any new or existing customer who applies for an extension of service from that corporation to install a gas or electric extension in accordance with

the regulations of the commission and any applicable specifications of that electrical or gas corporation.

SEC. 3. The Legislature recognizes that the Public Utilities Commission is required to redirect existing resources to accomplish the tasks and purposes required by this act, and directs the commission to report to the Legislature pursuant to Section 28 of the Budget Act those activities which will be curtailed or eliminated, notwithstanding any other provisions of law which require those activities, in order to accomplish the purposes 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:

The Public Utilities Commission plans to implement proposed rules governing the extension of service by gas and electrical corporations to new residential, commercial, and industrial customers very shortly. In order to ensure that the commission not implement these proposed rules during the pendency of the Legislature's study of the economic impact of the rules, it is necessary that this act take effect immediately.

CHAPTER 1230

An act to add and repeal Section 7042.5 of the Business and Professions Code, and to add Section 53066.01 to the Government Code, relating to community antenna television.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 7042.5 is added to the Business and Professions Code, to read:

7042.5. This chapter does not apply to public utilities operating under the regulation of the Public Utilities Commission on construction, maintenance, and development work incidental to their own business, or to those activities of a cable television corporation subject to regulation pursuant to Section 768.5 of the Public Utilities Code.

As used in this section, a cable television corporation is a corporation or person that transmits television programs by cable to subscribers for a fee.

This section shall remain in effect only until January 1, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 2. Section 53066.01 is added to the Government Code, to read:

53066.01. Notwithstanding the provisions of Section 53066, with respect to any franchise which becomes effective on or after January 1, 1984, the initial franchise fee payment shall not be paid or be made payable in advance for any period of operation which occurs more than 12 months following the date upon which initial payment is made, except that in the case of a joint powers agency which includes a county, or any portion thereof, and one or more cities, formed for purposes of issuing and administering one or more cable television franchises for a community antenna system in an area comprising more than 300,000 households, there may be an advance payment of franchise fees for purposes of the initial preparation, execution, administration, and supervision of the franchise documents and construction of the community antenna system, which payment shall not exceed eight hundred thousand dollars ($800,000).

Any advance payment of a franchise fee shall be credited against a franchise fee which subsequently becomes payable. No payment of franchise fees, other than the initial payment, may be made in advance.

SEC. 3. The addition of Section 7042.5 to the Business and Professions Code made by Section 1 of this act is declaratory of, and does not constitute a change in, existing law.

CHAPTER 1231

An act to amend Section 4590 of, and to repeal Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of Title 2 of, the Government Code, to amend Sections 38012 and 38013 of the Health and Safety Code, to amend Section 10101 of, to add and repeal Section 12100.5 of, and to add Chapter 2 (commencing with Section 10290) to Part 2 of Division 2 of, the Public Contract Code, relating to public agency transactions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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, provided that until July 1, 1984, substitution of securities provisions shall not be required in contracts in which there will be financing provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Section

1921 et seq.). 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. 1.5. Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of Title 2 of the Government Code is repealed.

SEC. 2. 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 4 of Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code.

SEC. 3. 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 10336 of the Public Contract Code.

SEC. 3.5. Section 10101 of the Public Contract Code is amended to read:

10101. Contracts for the purchase of supplies or materials, which are purchased pursuant to Chapter 2 (commencing with Section 10290), Part 2, Division 2, of the Public Contract Code, are not subject to this part, even though the seller is required to perform some incidental work or service in connection with the delivery of the material or supplies.

SEC. 4. Chapter 2 (commencing with Section 10290) is added to Part 2 of Division 2 of the Public Contract Code, to read:

CHAPTER 2. STATE PROCUREMENT OF MATERIALS, SUPPLIES, EQUIPMENT, AND SERVICES

Article 1. Definitions

10290. As used in this chapter:

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

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

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

(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.

Article 2. Approval of Contracts

10295. All contracts entered into by any state agency for (a) the hiring or purchase of equipment, supplies, materials, or elementary school textbooks, (b) services, whether or not the services 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 the state agency for or in cooperation with any person, or public body, are void unless and until approved by the department. 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 the 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 shall not apply to any transaction entered into by the Trustees of the California State University involving an expenditure of less than one hundred thousand dollars ($100,000) or by a department under the State Contract Act or the California State University and Colleges 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.

10295. 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 services 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 the state agency for or in cooperation with any person or public body, are void unless and until approved by the department. 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 the 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 shall not apply to any contract let by a department under the State Contract Act or the California State University and Colleges 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 become operative January 1, 1987.

10296. Every contract entered into by any state agency for any purpose specified in subdivisions (a) through (d), inclusive, of Section 10295 shall contain a statement by which the contractor swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against the contractor within the immediately preceding two-year period because of the contractor's failure to comply with an order of a federal court which orders the contractor to comply with an order of the National Labor Relations Board. For purposes of this

section, a finding of contempt does not include any finding which has been vacated, dismissed, or otherwise removed by the court because the contractor has complied with the order which was the basis for the finding. The state may rescind any contract in which the contractor falsely swears to the truth of the statement required by this section.

10297. The provisions of Section 10295 shall apply both to contracts awarded through competitive bidding and those not subject to competitive bidding. The department shall deny its approval of a contract awarded through competitive bidding if it finds that the contract does not meet the specifications or other conditions of the bidding process, or if any applicable statutes or regulations regarding competitive bidding have been violated. With regard to any contract not awarded through competitive bidding, the department shall ascertain whether the contract is subject to competitive bidding requirements, and if it finds that is the case, the department shall deny its approval.

In making its determination on any contract, the department shall consider all other relevant factors, such as clarity of language and legality, and shall utilize its legal staff as necessary to facilitate the approval process.

10298. The provisions of this article shall not apply to contracts covered under Article 4 (commencing with Section 10335) or 5 (commencing with Section 10355).

Article 3. Competitive Bidding and Other Purchase Procedures

10300. It is the intent of the Legislature, in enacting this article, to achieve the following objectives:

(a) In conjunction with Article 2 (commencing with Section 10295), to clarify the law with respect to competitive bidding requirements.

(b) To ensure full compliance with competitive bidding statutes as a means of protecting the public from misuse of state funds.

(c) To provide all qualified bidders with a fair opportunity to enter the bidding process, thereby stimulating competition in a manner conducive to sound state fiscal practices.

(d) To eliminate favoritism, fraud, and corruption in the awarding of state contracts.

10301. Except in cases when the agency and the department agree that an article of a specified brand or trade name is the only article which will properly meet the needs of the agency, or in cases where the State Board of Control has made a determination pursuant to Section 10308, all written contracts for the sale or hiring of materials, supplies, or equipment in an amount of five thousand dollars ($5,000) or more, and all other purchases or hiring of materials, supplies, or equipment in an amount of five thousand dollars ($5,000) or more, shall be made or entered into with the lowest responsible bidder meeting specifications.

The department may, however, prescribe that contracts or purchases in amounts less than five thousand dollars ($5,000) but not less than one thousand dollars ($1,000) for certain specific types or classes of materials, supplies, or equipment shall be made or entered into only with the lowest responsible bidder meeting specifications in lieu of any other method of procurement.

If an agency or a vendor is of the opinion that the method of procurement prescribed by the department for purchases of specified types or classes of materials, supplies, and equipment in amounts less than five thousand dollars ($5,000) will not best serve the interests of the state, the agency or vendor may request a hearing before the State Board of Control and the board shall determine which method of procurement will best serve the interests of the state, whereupon the department shall proceed in accordance with the board's determination.

For purposes of determining the lowest bid, the amount of sales tax shall be excluded from the total amount of the bid.

10302. Except in cases of emergency where immediate purchase of supplies or equipment without bid is necessary for the protection of the public health, welfare, or safety, whenever the department purchases supplies or equipment in excess of five thousand dollars ($5,000), or whenever the department pursuant to Section 10301 requires that contracts or purchases in amounts less than five thousand dollars ($5,000) be made or entered into with the lowest responsible bidder meeting specifications, all vendors who have notified the department in writing they desire to bid on such supplies or equipment, and who have been prequalified in accordance with the provisions of this section, shall be furnished with complete specifications as to the type, quality, quantity, and whenever practicable the date, place and method of delivery of the equipment or supplies to be purchased. In addition to notifying all such persons, the department shall post in a public place a copy of such specifications which shall remain posted until seven days after an award has been made. Whenever a purchase in excess of five thousand dollars ($5,000) is made under this section or Section 10301 without the taking of bids, the department shall report to the State Board of Control the fact of the purchase together with a written statement of the facts requiring the purchase of the supplies or equipment without the taking of bids.

10303. The department shall adopt, publish and apply uniform standards of rating bidders, on the basis of questionnaires and required statements, with respect to contracts upon which each bidder is qualified to bid. The department may adopt and publish lists of qualified bidders. No list so adopted and published shall preclude a qualified bidder not on the list from submitting a bid or bids and from being awarded a contract or contracts as the successful bidder.

The department may remove, for a period not to exceed 90 calendar days, from any list of qualified bidders prepared by the

department any bidder who, based upon his performance on contracts which he has previously been awarded by the state, has demonstrated a lack of reliability in complying with and completing such previously awarded contracts.

Any bidder temporarily removed under this section shall be returned to the list of qualified bidders at any time during this 90-day period, upon demonstrating to the department's satisfaction that the problems which resulted in the bidder's previously demonstrated unreliability in completing state contracts, have been corrected.

10304. All bids shall be sealed and shall be publicly opened and read at the time set forth in the request for bids, provided any person present desires the bids to be so read. No bids shall be considered which have not been received in the office of the department prior to the closing time for bids set forth in the invitations to bids. The department shall maintain confidentiality regarding each bid until the public opening and reading takes place.

10305. After being opened the bids shall be available for public inspection and tabulations shall be completed within seven days.

10306. Whenever a contract or purchase order under this article is not to be awarded to the lowest bidder, the bidder shall be notified by telegram 24 hours prior to awarding the contract or purchase order to another bidder. 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 department at least 24 hours prior to awarding the contract or purchase order. If prior to making the award, any bidder who has submitted a bid files a protest with the department against the awarding of the contract or purchase order on the ground that he or she is the lowest responsible bidder meeting specifications, the contract or purchase order shall not be awarded until either the protest has been withdrawn or the State Board of Control has made a final decision as to the action to be taken relative to the protest. In computing the 24-hour periods provided for in this section Saturdays, Sundays and legal holidays shall be excluded.

Within 10 days after filing a protest, the protesting bidder shall file with the State Board of Control a full and complete written statement specifying in detail the ground of the protest and the facts in support thereof.

10307. The director shall establish statewide purchasing standards, the purpose of which shall be to ensure the necessary quality of supplies and equipment purchased by or under the supervision of the department and to permit the consolidation of purchases in order to effect greater economies in state purchasing.

10308. Except as provided otherwise in this chapter, every purchase of supplies or equipment in excess of one hundred dollars ($100) for any state agency shall be made by or under the supervision of the department. However, the state agency may specify the quality of the supplies or equipment to be purchased. If the department determines that the quality specified by the agency is inconsistent with the statewide purchasing standards established by

the director under Section 10307, it shall change the order to make it consistent with the standards, and it shall notify the state agency, within a reasonable time, before a purchase order is issued. If the agency is of the opinion the interests of the state would not be served by the purchase of supplies or equipment of a lesser quality or different than that specified by the agency, the agency may request a hearing before the State Board of Control and the board shall determine which supplies or equipment will best serve the interests of the state, whereupon the department shall issue a purchase order for the supplies or equipment specified by the State Board of Control.

10309. Except as provided in Sections 10332 and 10333, 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.

10310. Upon the request of the department, every state agency that is authorized by law to make purchases of equipment, material or supplies shall designate some person in the agency whose duty it shall be to make reports to the department at times and in a manner as it may require.

10311. An estimate or requisition approved by the state agency in control of the appropriation or fund against which a purchase is to be charged, is full authority for any contract and purchase of supplies of the quality specified by the agency or determined by the Board of Control as provided in this article made pursuant thereto by the department.

The department shall issue a call for bids within 30 days after receiving a requisition for any supplies, material, or equipment that are regularly purchased within this state. The period of closing time designated in the invitations for bids shall be exclusive of holidays and shall be extended to the next working day after a holiday.

After the closing date for receiving any bids within or without this state, the contract of purchase shall be awarded or the bids shall be rejected within 30 days unless a protest is filed as provided in Section 10306.

10312. Immediately upon the rendition of services or the delivery of supplies, the disbursing officer shall transmit the invoice or demand for payment together with his or her sworn statement to the Controller. The sworn statement shall show that the services have been rendered and the supplies delivered to the state agency in accordance with the contract and law.

10313. The director may make the services of the department under this article available, upon such terms and conditions as he or she may deem satisfactory, to any tax-supported public agency in the state, including a school district, for assisting the agency in the purchase or lease of television communications equipment.

10314. Any contract or purchase order for supplies or equipment to be manufactured by the contractor specially for the state and not suitable for sale to others in the ordinary course of the contractor's

business may provide, on such terms and conditions as the department deems necessary to protect the state's interests, for progress payments for work performed and costs incurred at the contractor's shop or plant, provided that not less than 10 percent of the contract price is required to be withheld until final delivery and acceptance of the supplies or equipment, and provided further, that the contractor is required to submit a faithful performance bond, acceptable to the department, in a sum not less than one-half of the total amount payable under the contract securing the faithful performance of the contract by the contractor.

10315. The department may rent, lease, construct, and maintain warehouses and make such rules and regulations as are necessary for the proper and economical making of state purchases.

10316. The department may insure in the name of the state any goods or merchandise belonging to the state which are stored in any warehouse or storage depot not under exclusive state control, in an amount sufficient to indemnify the state against loss or damage by fire. Premiums for such insurance shall be paid out of the Service Revolving Fund and prorated and added to the price of the goods or merchandise.

10317. Each person in the department who has personal supervision and control of any warehouse or storage depot wherein merchandise or goods belonging to the state are stored, shall execute to the people of the state a bond in the penal sum of five thousand dollars ($5,000). Premiums on the bonds shall be paid by the state as are the premiums upon the bonds of state officers.

10318. No state agency or employee thereof shall draft or cause to be drafted, any specifications for bids, in connection with the purchase or contemplated purchase of any supplies or materials, or textbooks for use in the day and evening elementary schools of the state, in such a manner as to limit the bidding directly or indirectly, to any one bidder.

Bidders may be required to furnish a bond or other indemnification to the state against claims or liability for patent infringement.

10319. To meet an emergency, supplies and materials of a perishable nature, in an amount not exceeding one hundred dollars ($100) in value, may be purchased by a state agency without the permission of the department.

10320. The Department of General Services shall annually prepare a purchasing delegation program for district agricultural associations to be administered by the Department of Food and Agriculture and the Department of General Services pursuant to the following criteria:

(a) Purchases shall not exceed five thousand dollars ($5,000).

(b) The Department of General Services shall annually review purchases to be included in the program and the amount of delegation for each type of purchase.

(c) The Department of General Services shall annually review

with the Department of Food and Agriculture the aggregate limit for the delegation program.

(d) The Department of General Services shall annually communicate with each fair eligible for the delegation program, information relating to the procedure to be followed for using the delegation, including, but not limited to, the things included in the delegation program.

10321. (a) The Legislature finds and declares that fairs are a valuable community resource and recognizes that local businesses and local communities make valuable contributions to fairs that include direct and indirect support of fair programs. The Legislature further finds and declares that local businesses often provide opportunity purchases to local fairs that, for similar things available through the state purchasing program, may be purchased locally at a price equivalent to or less than that available through the state purchasing program.

(b) Notwithstanding any other provision of law to the contrary, the Department of General Services and the Department of Food and Agriculture shall develop criteria to be applied for opportunity purchases that are made by district agricultural associations.

As used in this section, opportunity purchases means purchases locally at a price equal to or less than the price available through the state purchasing program on or off state contract.

10322. Any person who supplies any state agency with livestock products derived from any of the animals enumerated in Section 19501 of the Food and Agricultural Code shall file with the department a sworn statement that the animals were slaughtered by methods defined in that section and in Sections 19502 and 19503 of the Food and Agricultural Code.

10323. To assist the department and other state agencies in the enforcement of the provisions of Section 19501 of the Food and Agricultural Code, the Department of Food and Agriculture shall provide, through cooperation with the United States Department of Agriculture in the enforcement of Public Law 85-765 and by means of appropriate regulations, suitable methods of identifying the carcasses of animals inspected and passed under Chapter 4 (commencing with Section 18651) of Part 3 of Division 9 of the Food and Agricultural Code that have been slaughtered by methods prescribed by Sections 19501, 19502, and 19503 of that code.

10324. The department is authorized to make purchases of materials, equipment, or supplies, other than printed material, on behalf of any city, county, city and county, district, or other local governmental body or corporation empowered to expend public funds for the acquisition of property, upon written request of such local agency; provided that the purchases can be made by the department upon the same terms, conditions and specifications at a price lower than the local agency can obtain through its normal purchasing procedures. The state shall incur no financial responsibility in connection with purchases for local agencies under

this section. No purchase shall be for less than five hundred dollars ($500) and the local agency shall accept sole responsibility for payment to the vendor. All purchases shall be subject to audit and inspection by the local agency for which made.

The competitive bidding requirements of this chapter shall apply to purchases made under this section.

Purchases under this section shall be subject to the provisions of Section 10306.

No purchase shall be made under this section when bids have been received by the local agency for the furnishing of the materials, equipment, or supplies, unless the purchase by the department can be made at a lower price upon the same terms, conditions and specifications.

A charge shall be made to each local agency availing itself of this service, the charge to be not less than the estimated cost to the department of rendering the service, including costs incurred by the department in preparation for a purchase requested by a local agency in instances where such request is canceled or withdrawn by the local agency prior to award of the contract or purchase order by the department.

The department may adopt such rules and regulations as are necessary for the purposes of this section.

10325. Each quarter the department shall upon request provide each city, county, city and county, district, local government body, or public corporation empowered to expend public funds for the acquisition of consumable materials and supplies and other interested parties with a list of such items available for purchase under Section 10324. The department may supplement the quarterly lists with a monthly supplement of changes, additions and deletions. Terms, conditions and specifications shall be provided upon request.

10326. In establishing bid specifications for the purchase of motor vehicles and in determining the lowest responsible bidder, consideration may be given by the state to the probable resale value of the vehicles as determined by recognized published used car marketing guides and other established historical evidence of future used motor vehicle value or, in lieu thereof, by contractual guarantee of the apparent low bidder that the resale value of the vehicle will be no less in proportion to bid price than any other comparable vehicle complying with specifications for which a bid was received.

10327. Except for motor vehicles described in Section 43805 of the Health and Safety Code, the provisions of Article 1 (commencing with Section 43800), Chapter 4, Part 5, Division 26 of the Health and Safety Code shall govern the purchase of all motor vehicles by the state to the extent that the Department of General Services determines that these low-emission vehicles are reasonable to meet state needs pursuant to Section 43804 of the Health and Safety Code.

10328. The bid requirements prescribed in this article are not applicable to purchases or contracts for the purchase of the following:

(a) Fluid milk and fluid cream, the price of which is established in accordance with Section 61871 of the Food and Agricultural Code.

(b) Fruits and vegetables procured under contract with growers for the use of canneries maintained and operated by state agencies, if these canneries are maintained and operated so that their canned products will meet the standards prescribed for similar commercially packed canned products under federal law.

(c) Such agricultural surpluses as may be available to the state or its agencies by any governmental agency.

10329. No person shall willfully split a single transaction into a series of transations for the purposes evading the bidding requirements of this article.

10330. 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 10333. The level established at eight hundred dollars ($800) on January 1, 1983, and adjusted on July 1, 1983, pursuant to former Section 14792.1 of the Government Code, shall be retained and 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.

10331. The department shall establish a program for delegating authority to purchase materials, supplies, and equipment to state agencies which meet the requirements of Section 10333. 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 10333.

10332. 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 10330.

(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 2807 of the Penal Code, to purchase from the prison industry authority.

(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 the 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.

10333. (a) The department shall delegate purchasing authority, as specified in Section 10332, 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 10307, 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 of the Government Code.

(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.

Article 4. Contracts for Services

10335. 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 10351, all contracts subject to the provisions of this article are of no effect unless and until approved by the department. 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 covered under Article 5 (commencing with Section 10355), contracts for the construction, alteration, improvement, repair, or maintenance of real or personal property, contracts for architectural and engineering services subject to the provisions of Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code, or to contracts which are expressly excepted from the provisions of Section 10295.

10336. 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.

10337. (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 the 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 of the Government Code, 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 of the Government Code, if the review has been requested by an employee organization notified pursuant to Section 19131 of the Government Code. 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 of the Government Code 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 of the Government Code 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 of the Government Code. 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.

10338. 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. 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.

10339. (a) Subject to the provisions of Section 10348, 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.

10340. (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, a local governmental entity, or an auxiliary organization of the California State University.

(4) The contract meets the conditions prescribed by the department pursuant to subdivision (a) of Section 10348.

(5) The contract has been awarded without advertising and calling for bids pursuant to Section 19404 of the Welfare and Institutions Code.

(c) Any agency which has received less than three bids or proposals on a contract shall document, in a manner prescribed by the department, the names and addresses of the firms or individuals it solicited for bids or proposals.

10341. 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.

10342. After opening, all bids shall be available for public inspection.

10343. 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 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 shall establish written procedures for deciding protests.

10344. (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 subdivision (b) or (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.

10345. Contracts awarded under the provisions of Section 10344 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 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 10344.

(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 10344, 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 10344, 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 10344, 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 shall establish written procedures for deciding protests under this section.

10346. 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 10347.

No state agency shall make progress payments on a contract unless it first has established procedures, approved by the department, which will ensure that the work or services contracted are being delivered in accordance with the contract.

10347. 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.

The evaluation shall be carried out on a form prescribed by the department, 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.

10348. The department 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.

10349. 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.

10350. 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.

10351. (a) The department 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 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.

10352. (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 10351.

(b) The exemption provided by Section 10351 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 10351. 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.

Article 5. Consulting Services Contracts

10355. 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.

10356. (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, a grant, or any other payment of funds for services of the above type.

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 of the Government Code.

(5) Contracts which are expressly excepted from the provisions of Section 10295.

(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.

10357. "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.

10358. (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.

10359. (a) Each quarter, 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.

10360. 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.

10361. Except as provided in Sections 10362 and 10363, the

department 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 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.

10362. (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 the 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 of the Government Code, 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 of the Government Code, if the review has been requested by an employee organization notified pursuant to Section 19131 of the Government Code. 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 of the Government Code 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 of the Government Code 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 of the Government Code. 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.

10363. 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.

10364. (a) The department 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 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.

10365. (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 10364.

(b) The exemption provided by Section 10364 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 10364. 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.

10366. Consulting services contracts subject to the approval of the department 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, 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. 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.

10367. (a) The department shall utilize the standardized pre- and post-evaluation forms prepared pursuant to former Section 14830.12 of the Government Code, and submit the forms to every state agency or department. The forms shall be continued in use and reprinted as necessary in order to meet the requirements of this section. Upon receipt of the forms, each state agency or department shall use the forms to evaluate each consulting services contract which totals one thousand dollars ($1,000) or more. Any contract which totals less than one thousand dollars ($1,000) shall not be subject to the evaluation procedures of this article, but contracts exempt under Section 10364 shall be subject to these procedures. No state agency or office may enter into a consultant contract covered by evaluation procedures until it has completed and had accepted, a pre-evaluation form for the contract.

The department 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 for efficaciousness and communicate his or her comments to the Legislature and to the department.

In addition, the Auditor General shall periodically, during the 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.

10368. 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 the benefit.

(f) State the cost of contract, and the bidding mechanism planned.

10369. 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.

10370. (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. 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, shall be grounds for rejection of future contracts or modification of exemptions.

10371. 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 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 10369.

(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 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. The requirement of this subdivision shall not apply to any sole-source contract executed with an expert witness for purposes of civil litigation in a pending case.

(h) The department shall have the duty to restrict or terminate the authority of a state agency or office to enter into consultant contracts if the agency or office has consistently avoided the proper preparation and submission of pre- and post-evaluation forms, as required by this article.

10372. (a) Subject to the provisions of Section 10380, 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.

10373. (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 pursuant to subdivision (a) of Section 10380.

(c) Any agency which has received less than three bids or proposals on a contract shall document, in a manner prescribed by the department, the names and addresses of the firms or individuals it solicited for bids or proposals.

10374. 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.

10375. After opening, all bids shall be available for public inspection.

10376. 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 shall establish written procedures for deciding protests.

10377. (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 subdivision (b) or (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.

10378. Contracts awarded under the provisions of Section 10377 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 subdivision (b) or (c) of Section 10377.

(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 10377, 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 10377, 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 10377, 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 shall establish written procedures for deciding protests under this section.

10379. 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 10369.

No state agency shall make progress payments on a contract unless

it first has established procedures, approved by the department, which will ensure that the work or services contracted are being delivered in accordance with the contract.

10380. The department 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.

10381. (a) The department shall ensure that all state agencies and departments are kept fully informed of the department's plans and procedures for implementing the provisions of this article. The department shall make information available on implementation procedures to all interested parties.

(b) The department shall ensure 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.

10382. 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.

Article 6. Purchase of Federal Surplus Property

10385. The department may purchase, lease or otherwise acquire from the federal government or any agency thereof for use of state agencies, surplus real property, including buildings, fixtures, and equipment situated thereon, whenever in the department's judgment the purchase or acquisition and the terms and conditions thereof are in the best interests of the state.

10386. Any and all negotiations with the federal government or its agencies for or in connection with the purchase or acquisition of such property, and all activities, functions and responsibilities pertaining thereto, are hereby vested in and shall be assumed and conducted exclusively by the department. No other state officer or agency shall, except on the authorization of the department, negotiate with the federal government or its agencies for or in connection with the purchase or acquisition of such property. Any state agency may inspect such property to determine whether the same would be useful in the performance of its duties and may make recommendations to the department concerning the same.

10387. The department shall do all of the following:

(1) Keep in constant touch with federal agencies charged with the sale or disposition of federal property and secure from them full details as to the nature and availability of the property and the terms and conditions under which it can be purchased or acquired.

(2) Transmit information thus secured to all state agencies in

order that they may possess complete and up-to-date information as to the nature and selling price of available property.

(3) Prescribe procedures consistent with this article to be followed by state agencies in requisitioning and paying for the property and inform them of the procedures.

10388. Unless otherwise prescribed by the department, state agencies desiring to purchase or acquire federal property shall submit their estimates or requisitions therefor to the department, and shall pay for the property, in accordance with existing laws governing state purchases.

10389. This article shall not apply to the Trustees of the California State University.

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 on or before January 1, 1987, deletes or extends that date.

Article 7. Recycling

10390. The Legislature finds and declares that it is the policy of the state to conserve and protect its resources. The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.

The Legislature further finds and declares that the volume of solid waste generated within the state coupled with an increased rate in the consumption of paper products and the absence of adequate programs and procedures for the reuse of these materials threaten the quality of the environment and well-being of the people of California.

In making these findings the Legislature declares that the policy and intent of this article is to improve environmental quality by the recycling of paper products.

10391. For the purposes of this article, "recycled paper" shall mean all paper and woodpulp products containing postconsumer waste and secondary waste materials as defined in this section. "Postconsumer waste" means a finished material which would normally be disposed of as solid waste, having completed its life cycle as a consumer item. "Secondary waste" means fragments of products or finished products of a manufacturing process which has converted a virgin resource into a commodity of real economic value, and includes postconsumer waste, but does not include mill broke, wood slabs, chips, sawdust or other wood residue from a manufacturing process.

"Recycled paper" means a paper product with not less than 50 percent of its total weight consisting of secondary and postconsumer waste with not less than 10 percent of its total weight consisting of postconsumer waste.

10392. The department shall revise its procedures and specifications for state purchases of paper to give preference, wherever feasible, to the purchase of paper products containing

recycled paper.

The department shall give preference to the suppliers of recycled paper products if the bids of such suppliers do not exceed by more than 5 percent the lowest bid or price quoted by suppliers offering nonrecycled paper products.

To encourage the use of postconsumer waste, the department's specifications shall require recycled paper contracts to be awarded to the bidder whose paper contains the greater percentage of postconsumer waste if the fitness and quality and price are otherwise equal.

The department may adopt rules and regulations to carry out the provisions of this article.

10393. (a) The director shall review the procurement specifications currently used by the department in order to eliminate, wherever economically feasible, discrimination against the procurement of recovered resources and recycled materials.

(b) The director shall review the recycled paper content specifications at least annually to consider increasing the percentage of recycled paper in paper and woodpulp product purchases.

(c) When contracting with the department for the sale of material subject to this article, the contractor shall certify in writing to the contracting officer or his or her representative that the material offered contains the minimum percentage of recycled paper required by Section 10392 and shall specify the percentage of recycled paper content in the paper or paper products.

The certification shall be furnished under penalty of perjury.

(d) The department shall establish purchasing practices which, to the maximum extent economically feasible, assure purchase of materials which may be recycled or reused when discarded.

(e) The department shall make every effort to eliminate purchases of paper and paper products deemed potential contaminants to the state's recycling program.

10394. The department shall require the persons with whom it contracts to use, to the maximum extent economically feasible in the performance of the contract work, recycled paper.

10395. The department, with the advice of the State Solid Waste Management Board, shall establish a paper recycling plan for all paper refuse of all state agencies and all offices in state buildings in Sacramento, Los Angeles, and San Francisco Counties, and in any other area as the director deems feasible. The plan shall provide either for the collection and sale of wastepaper to private paper brokers or recycling plants, or the operation of these plants by the state, or a combination thereof. The plan shall be put into operation, to the extent feasible, as soon as possible.

10396. The department may contract as necessary for the recycling of paper products which have been returned pursuant to Section 10395.

10397. Revenues received from sale of wastepaper through paper recycling programs operated by the department shall be used when

appropriated by the Legislature, first, to offset recycling program costs, and second, to reduce increased charges for recycled paper furnished to state agencies by the department due to the preference which must be given the suppliers of recycled paper pursuant to Section 10392. Any remaining revenues not expended during a fiscal year shall be transferred to the General Fund.

10398. Fitness and quality being equal, all local public agencies shall purchase recycled paper and paper products instead of unrecycled paper or paper products whenever available at no more than the total cost of unrecycled paper and paper products. All local public agencies may and state agencies shall give preference to the suppliers of recycled paper or paper products if the bids of these suppliers do not exceed by more than 5 percent the lowest bid or price quoted by suppliers offering unrecycled paper or paper products.

10399. All local public agencies shall require the bidder to specify the percentage of recycled paper content in the paper or paper products. All contract provisions impeding the consideration of products with reclaimed paper content shall be deleted in favor of performance standards.

All printing contracts made by any local agency shall provide that the paper used shall meet the requirements of these provisions.

Except as otherwise provided in this article, state agencies shall also be subject to the provisions of this section.

Article 8. Conflict of Interest

10410. 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 state 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 services or goods.

10411. (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 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 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. The prohibition of this subdivision shall not apply to a contract requiring the person's services as an expert witness in a civil case or to a contract for the continuation of an attorney's services on a matter he or she was involved with prior to leaving state service.

10412. Each contractor who enters into a state contract with the state for ten thousand dollars ($10,000) or more, shall be assigned an identification number by the department. Each contractor who has been assigned a number, shall list it on each 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 contract. The assigned number shall remain unchanged regardless of future name changes.

Article 9. Remedies and Penalties

10420. Every contract or other transaction entered in violation of any provision of this chapter is void, unless the violation is technical or nonsubstantive.

10421. The state, or any person acting on behalf of the state, may bring a civil action seeking a determination by the Superior Court that a contract or other transaction has been entered in violation of any provision of this chapter. If the court finds substantial evidence of such a violation, it may issue a temporary injunction to prevent any further dealings upon the contract or other transaction, pending a final determination on the merits of the case. If the action results in a final determination that the contract or other transaction has been entered in violation of this chapter, it shall be void, and the state or person bringing the action shall be awarded costs and attorney's fees. This section shall not be construed to permit an award of costs and attorney fees to the person or entity contracting or otherwise transacting with the state.

10422. Any officer or employee of the department who corruptly performs any official act under this chapter to the injury of the state is guilty of a felony.

10423. Any person contracting with the state by oral or written contract who corruptly permits the violation of any contract made under this chapter is guilty of a felony.

10424. Persons convicted under Section 10422 or 10423 are also liable to the state for double the amount the state may have lost, or be liable to lose by reason of the acts made crimes by this article.

10425. Willful violation of any other provision of this chapter shall constitute a misdemeanor.

Article 10. Exemptions

10430. This chapter does not apply to any of the following:

(a) The Regents of the University of California.

(b) Transactions covered under Chapter 3 (commencing with Section 12100).

(c) Except as otherwise provided in this chapter, any entity exempted from the provisions of Section 10295. However, the Trustees of the California State University shall be governed by this chapter except with regard to transactions covered under the California State University and Colleges Contract Law, and except as provided in Sections 10295, 10335, 10356, and 10389.

(d) Transactions covered under Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

SEC. 5. Section 12100.5 is added to the Public Contract Code, to read:

12100.5. With regard to any contract involving an expenditure of less than one hundred thousand dollars ($100,000), the Trustees of the California State University shall not be subject to supervision or approval of the Department of General Services, but shall be subject to all the other procedures of this chapter, including, but not limited to, competitive bidding requirements.

The Regents of the University of California shall not be subject to the provisions of this chapter.

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 on or before January 1, 1987, deletes or extends that date.

SEC. 6. Section 12100.5 is added to the Public Contract Code, to read:

12100.5. The Regents of the University of California shall not be subject to the provisions of this chapter.

This section shall become operative January 1, 1987.

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:

This act clarifies, reorganizes and revises statutes enacted for the protection of the public, which relate to state procurement of materials, supplies, equipment, and services, including statutes governing state approval of contracts and competitive bidding. This act also adds specific civil remedies and criminal penalties to further

the policy of protecting the public against favoritism, fraud, and corruption in the awarding of state contracts. It is vital that these changes and public safeguards are enacted at the earliest possible time to reduce misuse and misappropriation of state funds. It is therefore necessary that this act take effect immediately.

CHAPTER 1232

An act to add Chapter 2.5 (commencing with Section 5490) to Division 3 of the Business and Professions Code, relating to on-premises advertising.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Chapter 2.5 (commencing with Section 5490) is added to Division 3 of the Business and Professions Code, to read:

CHAPTER 2.5. ON-PREMISES ADVERTISING DISPLAYS

5490. (a) This chapter applies only to lawfully erected on-premises advertising displays. "On-premises advertising displays" means any structure, housing, sign, device, figure, statuary, painting, display, message placard, or other contrivance, or any part thereof, which has been designed, constructed, created, intended, or engineered to have a useful life of 15 years or more, and intended or used to advertise, or to provide data or information in the nature of advertising for any of the following purposes:

(1) To designate, identify, or indicate the name or business of the owner or occupant of the premises upon which the advertising display is located.

(2) To advertise the business conducted, services available or rendered, or the goods produced, sold, or available for sale, upon the property where the advertising display has been lawfully erected.

(b) This chapter does not apply to advertising displays used exclusively for outdoor advertising pursuant to the Outdoor Advertising Act (Chapter 2 (commencing with Section 5200)).

5491. Notwithstanding any provision of Chapter 2 (commencing with Section 5200), except as provided in this chapter, no on-premises advertising display which is used for any of the purposes set forth and conforming to Section 5490 shall be compelled to be removed or abated, and its customary maintenance, use, or repair shall not be limited, whether or not removal or limitation is required because of any ordinance or regulation of any city or county, without the payment of fair and just compensation.

5492. For purposes of compliance with Section 5491, fair and just

compensation is presumed to be paid upon the payment of the fair market value of the on-premises advertising display as of the date written notice is given to the owner of the display requiring conformance or removal thereof.

Fair market value consists of the actual cost of removal for the display, the actual cost to repair any damage caused to the real property or improvements thereon as a result of the removal of the display, and the actual cost to duplicate the advertising display required to be removed as of the date written notice requiring removal for nonconformance is given to the owner by the governmental body requiring conformance or removal.

5493. (a) As an alternative to payment of fair and just compensation under Section 5492, a city or county may pay fair and just compensation to the owner of the on-premises advertising display by paying the actual replacement cost to the owner for an on-premises advertising display which shall conform with the laws in effect that are applicable to the owner's business premises, and shall include, as part of the actual replacement cost, the actual cost for removal of the nonconforming on-premises advertising display and the actual cost of the repair to the real property caused by the removal of the display.

(b) The sum payable as fair and just compensation to the owner of any on-premises advertising display shall be the greater of the two methods provided in subdivision (a) of this section or Section 5492 as the basis for fair and just compensation. In any event, before any on-premises advertising display is required to be removed, the fair and just compensation required by subdivision (a) of this section or Section 5492 shall be paid.

5494. The ordinances and regulations of any city or county, introduced or adopted prior to March 12, 1983, which make nonconforming, lawfully in place erected on-premises advertising displays, and which have provided for amortization for the lawfully in place nonconforming signs, shall not be subject to Section 5491. All on-premises advertising displays which are nonconforming as a result of any such ordinance or regulation, or which become nonconforming as a result of annexation to a city or county, are presumed to be illegal when the period of time for amortization has lapsed as provided in the preexisting laws. Except as otherwise provided in this section, amendments or modifications to existing ordinances and regulations of any city or county, introduced or adopted after March 12, 1983, shall be subject to this chapter if the amendments or modifications are more restrictive than the preexisting ordinance. Ordinances which have or will terminate may be reenacted and are not subject to Section 5491 if reenacted within 12 months of their termination and if it is not more restrictive than the preexisting ordinance. Amendments or modifications to existing ordinances and regulations by a city or county which require removal of additional displays, including displays which had previously been made conforming, shall not be subject to this

chapter if the amortization period is not more restrictive than the amortization period set forth in preexisting ordinances or regulations within the city or county.

5495. A city or county whose ordinances or regulations are introduced or adopted after March 12, 1983, and any amendments or modifications to those ordinances and regulations, are not in violation of Section 5491 if the entity elects to require the removal without compensation of any on-premise advertising display which meets all of the following requirements:

(a) The display is located within an area shown as residential or agricultural on a local general plan as of the date the display was lawfully erected.

(b) The display is located within an area zoned for residential or agricultural use on the date the display was lawfully erected.

(c) The display is not required to be removed because of an overlay zone, combining zone, special sign zone, or any other special zoning district whose primary purpose is the removal or control of advertising displays.

(d) The display is allowed to remain in existence after March 12, 1983, for a period of 15 years from the date of adoption of the ordinance or regulation. For purposes of this section, every sign has a useful life of 15 years. Fair and just compensation for signs required to be removed during the 15-year period and before the amortization period has lapsed shall be entitled to fair and just compensation which is equal to 1/15 of the duplication cost of construction of the display being removed multiplied by the number of years of useful life remaining for the sign as determined by this section.

5495.5. A city or county with an ordinance or regulation adopted prior to March 12, 1983, is not in violation of Section 5491 for an ordinance or regulation introduced or adopted after March 12, 1983, and any amendments to that ordinance or regulation, even though it requires removal of on-premises advertising displays in additional portions of the city or county, if the amortization period in the ordinance or regulation is not more restrictive than the amortization period set forth in the preexisting ordinance or regulation of the city or county.

5496. A city or county, whose ordinances or regulations are otherwise in full compliance with Section 5491 is not in violation of that section if it elects to deactivate, without compensation, any flashing or rotating features of the on-premises advertising display, unless the flashing or rotating feature of the display has historical significance.

5497. A city or county, whose ordinances or regulations were introduced or adopted after March 12, 1983, or any amendments to those ordinances and regulations, is not in violation of Section 5491 if it elects to require the removal, without compensation, of any on-premise advertising display which meets any of the following criteria:

(a) Any advertising display erected without first complying with

all ordinances and regulations in effect at the time of its construction and erection or use.

(b) Any advertising display which was lawfully erected anywhere in this state, but whose use has ceased, or the structure upon which the display has been abandoned by its owner, for a period of not less than 90 days. Costs incurred in removing an abandoned display may be charged to the legal owner.

(c) Any advertising display which has been more than 50 percent destroyed, and the destruction is other than facial copy replacement, and the display cannot be repaired within 30 days of the date of its destruction.

(d) Any advertising display whose owner, outside of a change of copy, requests permission to remodel and remodels that advertising display, or expand or enlarge the building or land use upon which the advertising display is located, and the display is affected by the construction, enlargement or remodeling, or the cost of construction, enlargement, or remodeling of the advertising display exceeds 50 percent of the cost of reconstruction of the building.

(e) Any advertising display whose owner seeks relocation thereof and relocates the advertising display.

(f) Any advertising display for which there has been an agreement between the advertising display owner and the city or county, for its removal as of any given date.

(g) Any advertising display which is temporary.

(h) Any advertising display which is or may become a danger to the public or is unsafe.

(i) Any advertising display which constitutes a traffic hazard not created by relocation of streets or highways or by acts of any city or county.

(j) Ordinances adopted by a city within three years of its incorporation, which incorporation occurs after March 12, 1982, shall not be subject to Section 5491 except as provided by Section 5494.

5498. (a) Sections 5491 and 5495 do not apply to redevelopment project areas created pursuant to the Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the Health and Safety Code), planned commercial districts, or to areas listed or eligible for listing on the National Register of Historical Places, or areas registered by the Department of Parks and Recreation as a state historical landmark or point of historical interest pursuant to Section 5021 of the Public Resources Code, or areas created as historic zones or individually designated properties by a city or county, pursuant to Article 12 (commencing with Section 50280) of Chapter 1 of Division 1 of Title 5 of the Government Code.

(b) As used in this section, "planned commercial districts" means areas subject to binding agreements, including, but not limited to, conditions, covenants, restrictions, which do all of the following:

(1) Affect on-premise advertising displays.

(2) Are at least as restrictive as any ordinance of a city or county, which affects on-premise advertising displays at the time the

agreement was entered into.

(3) Contain a binding financing commitment sufficient to carry out the agreements.

5499. No city or county shall require the removal of any on-premise advertising display on the basis of its height if special topographic circumstances would result in a material impairment of visibility of the sign or the owner's ability to adequately and effectively continue to communicate with the public through the use of the on-premise advertising display by conformance with any ordinance or regulation of any city or county, introduced or adopted after March 12, 1983. Under these circumstances, the owner or user may maintain advertising displays at the business premise and at a location necessary to accomplish continued noticeability at the height the display was previously erected and in doing so, the owner or user is in conformance.

CHAPTER 1233

An act to amend Sections 1597.51, 1597.52, 1597.54, and 1597.61 of, to amend and renumber Sections 1597.50 and 1597.501 of, to add Sections 1597.35, 1597.45, 1597.46, 1597.47, and 1597.63 to, and to repeal Section 1597.63 of, the Health and Safety Code, relating to family day care homes.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 1597.50 of the Health and Safety Code is amended and renumbered to read:

1597.30. The Legislature finds and declares:

(a) It has a responsibility to ensure the health and safety of children in family homes that provide day care.

(b) That there are insufficient numbers of regulated family day care homes in California.

(c) There will be a growing need for child day care facilities due to the increase in working parents.

(d) Many parents prefer child day care located in their neighborhoods in family homes.

(e) There should be a variety of child care settings, including regulated family day care homes, as suitable alternatives for parents.

(f) That the program to be operated by the state should be cost effective, streamlined, and simple to administer in order to ensure adequate care for children placed in family day care homes, while not placing undue burdens on the providers.

(g) That the state should maintain an efficient program of regulating family day care homes that ensures the provision of

adequate protection, supervision. and guidance to children in their homes.

SEC. 2. Section 1597.35 is added to the Health and Safety Code, to read:

1597.35. For purposes of this chapter, the following definitions shall apply:

(a) "Department" means the State Department of Social Services.

(b) "Director" means the Director of Social Services.

(c) "Family day care" means regularly provided care, protection and supervision of 12 or fewer children, in the provider's own home, for periods of less than 24 hours per day, while the parents or guardians are away, and includes the following:

(1) "Large family day care home" which means a home which provides family day care to seven to 12 children, inclusive, including children who reside at the home, as defined in departmental regulations.

(2) "Small family day care home" which means a home which provides family day care to six or fewer children, including children who reside at the home, as defined in departmental regulations.

(d) "Planning agency" means the agency designated pursuant to Section 65100 of the Government Code.

(e) "Provider" means a person who operates a family day care home and is licensed or registered pursuant to the provisions of this chapter.

SEC. 3. Section 1597.501 of the Health and Safety Code is amended and renumbered to read:

1597.40. (a) It is the intent of the Legislature that family day care homes for children must be situated in normal residential surroundings so as to give children the home environment which is conducive to healthy and safe development. It is the public policy of this state to provide children in a family day care home the same home environment as provided in a traditional home setting.

The Legislature declares this policy to be of statewide concern with the purpose of occupying the field to the exclusion of municipal zoning, building and fire codes and regulations governing the use or occupancy of family day care homes for children, except as specifically provided for in this chapter, and to prohibit any restrictions relating to the use of single-family residences for family day care homes for children except as provided by this chapter.

(b) Every provision in a written instrument entered into relating to real property which purports to forbid or restrict the conveyance, encumbrance, leasing, or mortgaging of such real property for use or occupancy as a family day care home for children, is void and every restriction or prohibition in any such written instrument as to the use or occupancy of the property as a family day care home for children is void.

(c) Every restriction or prohibition entered into, whether by way of covenant, condition upon use or occupancy, or upon transfer of

title to real property, which restricts or prohibits directly, or indirectly limits, the acquisition, use, or occupancy of such property for a family day care home for children is void.

SEC. 4. Section 1597.45 is added to the Health and Safety Code, to read:

1597.45. All of the following shall apply to small family day care homes:

(a) The use of single-family residence as a small family day care home shall be considered a residential use of property for the purposes of all local ordinances.

(b) No local jurisdiction shall impose any business license, fee, or tax for the privilege of operating a small family day care home.

(c) Use of a single-family dwelling for purposes of a small family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law) or for purposes of local building codes.

(d) A small family day care home shall not be subject to the provisions of Article 1 (commencing with Section 13100) or Article 2 (commencing with Section 13140) of Chapter 1 of Part 2, except that a small family day care home shall contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal.

SEC. 5. Section 1597.46 is added to the Health and Safety Code, to read:

1597.46. All of the following shall apply to large family day care homes:

(a) A city, county, or city and county shall not prohibit large family day care homes on lots zoned for single-family dwellings, but shall do one of the following:

(1) Classify these homes as a permitted use of residential property for zoning purposes.

(2) Grant a nondiscretionary permit to use a lot zoned for a single-family dwelling to any large family day care home that complies with local ordinances prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration traffic control, parking, and noise control relating to such homes, and complies with subdivision (d) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise level generated by children. The permit issued pursuant to this paragraph shall be granted by the zoning administrator, if any, or if there is no zoning administrator by the person or persons designated by the planning agency to grant such permits, upon the certification without a hearing.

(3) Require any large family day care home to apply for a permit to use a lot zoned for single-family dwellings. The zoning administrator, if any, or if there is no zoning administrator, the person or persons designated by the planning agency to handle the

use permits shall review and decide the applications. The use permit shall be granted if the large family day care home complies with local ordinances, if any, prescribing reasonable standards, restrictions, and requirements concerning spacing and concentration, traffic control, parking, and noise control relating to such homes, and complies with subdivision (d) and any regulations adopted by the State Fire Marshal pursuant to that subdivision. Any noise standards shall be consistent with local noise ordinances implementing the noise element of the general plan and shall take into consideration the noise levels generated by children. The local government shall process any required permit as economically as possible, and fees charged for review shall not exceed the costs of the review and permit process. Not less than 10 days prior to the date on which the decision will be made on the application, the zoning administrator or person designated to handle such use permits shall give notice of the proposed use by mail or delivery to all owners shown on the last equalized assessment roll as owning real property within a 100 foot radius of the exterior boundaries of the proposed large family day care home. No hearing on the application for a permit issued pursuant to this paragraph shall be held before a decision is made unless a hearing is requested by the applicant or other affected person. The applicant or other affected person may appeal the decision. The appellant shall pay the cost, if any of the appeal.

(b) A large family day care home shall not be subject to the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(c) Use of a single-family dwelling for the purposes of a large family day care home shall not constitute a change of occupancy for purposes of Part 1.5 (commencing with Section 17910) of Division 13 (State Housing Law), or for purposes of local building and fire codes.

(d) Large family day care homes shall be considered as single-family residences for the purposes of the State Uniform Building Standards Code and local building and fire codes, except with respect to any additional standards specifically designed to promote the fire and life safety of the children in these homes adopted by the State Fire Marshal pursuant to this subdivision. The State Fire Marshal shall adopt separate building standards specifically relating to the subject of fire and life safety in large family day care homes which shall be published in Title 24 of the California Administrative Code. These standards shall apply uniformly throughout the state and shall include, but not be limited to: (1) the requirement that a large family day care home contain a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal; (2) specification as to the number of required exits from the home; and (3) specification as to the floor or floors on which day care may be provided. Enforcement of these provisions shall be in accordance with Sections 13145 and 13146. No city, county, city and county, or district shall adopt or enforce any building ordinance or local rule or regulation

relating to the subject of fire and life safety in large family day care homes which is inconsistent with those standards adopted by the State Fire Marshal, except to the extent the building ordinance or local rule or regulation applies to single-family residences in which day care is not provided.

(e) No later than April 1, 1984, the State Fire Marshal shall adopt the building standards required in subdivision (d) and any other regulations necessary to implement the provisions of this section.

SEC. 6. Section 1597.47 is added to the Health and Safety Code, to read:

1597.47. The provisions of this chapter 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 family day care facility as long as such restrictions are identical to those applied to other single-family residences. The provisions of this chapter shall not be construed to preclude the application to a family 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. The provisions of this chapter also shall not be construed to prohibit or restrict the abatement of nuisances by a city, county, or city and county. However, such ordinance or nuisance abatement shall not distinguish family day care facilities from other single-family dwellings, except as otherwise provided in this chapter.

SEC. 7. Section 1597.51 of the Health and Safety Code is amended to read:

1597.51. (a) Notwithstanding the provisions of Chapter 3 (commencing with Section 1500), the department shall establish, administer, and monitor a program which licenses family day care homes for children consistent with the provisions of this chapter except in those counties conducting pilot projects under Section 1597.62.

(b) The provisions of this chapter shall not apply to any family day care home providing care for the children of only one family, in addition to the operator's own children.

(c) The department shall adopt, amend, or repeal, in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, such reasonable rules, regulations, and standards as may be necessary or proper to carry out the purposes and intent of this chapter and to enable the department to exercise the powers and perform the duties conferred upon it by this chapter, not inconsistent with any of the provisions thereof.

SEC. 8. Section 1597.52 of the Health and Safety Code is amended to read:

1597.52. (a) The department may contract with state, county, or other public agencies for the assumption of certain responsibilities as provided in Section 1511. However, in exercising the authority so delegated, such agencies shall conform to the requirements of this chapter and to the rules, regulations, and standards of the

department promulgated under this chapter.

(b) The department and the local agencies with which it contracts for the licensing of family day care facilities for children shall grant or deny a license to a family day care home for children within 30 days after receipt of all appropriate licensing application materials, as determined by the department, and after a home visit has been completed, on the condition that the application includes a statement, signed under penalty of perjury, from the applicant and every other adult living at the same location, that he or she has never been convicted of a crime other than a minor traffic violation involving a fine of fifty dollars ($50) or less. If it is determined that the applicant does have a criminal record pursuant to the criminal records check provided in subdivision (a) of Section 1597.59, the license shall be suspended pending an administrative hearing pursuant to Section 1550. If any other adult living at the same location is found to have a criminal record, the license may be suspended pending an administrative hearing, unless the licensee removes those individuals from the home.

(c) Licensing reviews of care and services of a family day care home for children shall be limited to health and safety considerations and shall not include any reviews of the content of any educational or training programs of the facility.

(d) Review of family day care homes for children shall be limited to inspection for compliance with the provisions of this chapter, and shall not include evaluations and rating scales.

(e) No home shall be licensed or registered as a large family day care home after January 1, 1984, unless the provider has at least one year experience as a regulated small family day care home operator or as an administrator of a licensed child day care center.

(f) If the department finds that the applicant is not in compliance with this chapter or regulations promulgated hereunder, the department shall deny the applicant a license, license renewal, registration, or registration renewal.

SEC. 9. Section 1597.54 of the Health and Safety Code is amended to read:

1597.54. All family day care homes for children, shall apply for an initial license under this chapter, except that any home which on June 28, 1981, had a valid and unexpired license to operate as a family day care home for children under other provisions of law shall be deemed to have a license under this chapter for the unexpired term of the license at which time it may be renewed upon fulfilling the requirements of this chapter.

An applicant for initial licensure as a family day care home for children shall file with the department, pursuant to its regulations, an application on forms furnished by the department, which shall include, but not be limited to, the following:

(a) A brief statement confirming that the applicant is financially secure to operate a family day care home for children. The department shall not require any other specific or detailed financial

disclosure.

(b) Evidence that the small family day care home contains a fire extinguisher or smoke detector device, or both, which meets standards established by the State Fire Marshal under subdivision (d) of Section 1597.45 or evidence that the large family day care home meets the standards established by the State Fire Marshal under subdivision (d) of Section 1597.46.

(c) The fingerprints of any operator of a family day care home, and any other adult living in the same location.

(d) Evidence of a current tuberculosis clearance for any adult in the home during the time that children are under care.

(e) Such other information as may be required by the department for the proper administration and enforcement of the chapter.

SEC. 10. Section 1597.61 of the Health and Safety Code is amended to read:

1597.61. (a) When the department determines that a family day care home for children is operating without a license and notifies the unlicensed provider of the requirement for such license, the licensing agency may issue a cease and desist order only if it finds and documents that continued operation of the facility will be dangerous to the health and safety of the children. In all other cases where the licensing agency determines such a facility is operating without a license and notifies the unlicensed provider of the requirements for such license, the licensing agency may issue a cease and desist order only if such unlicensed provider does not apply for a license within a reasonable time after such notice.

(b) If an unlicensed family day care home fails to respond to a cease and desist order issued pursuant to subdivision (a), or if the department determines it necessary to protect the immediate health and safety of the children, the licensing agency may bring an action to enjoin such a home from continuing to operate.

(c) The district attorney of a county shall, upon application by the department, institute and conduct the prosecution of any action brought by the licensing agency against an unlicensed family day care home located in that county.

(d) Any action brought by the department against an unlicensed family day care home shall not abate by reason of a sale or other transfer of ownership of the family day care home which is party to the action except with written consent of the licensing agency.

(e) The department may also initiate other legal proceedings as provided in Sections 1550, 1551, and 1553.

SEC. 11. Section 1597.63 of the Health and Safety Code is repealed.

SEC. 12. Section 1597.63 is added to the Health and Safety Code, to read:

1597.63. Any person who willfully or repeatedly violates any provision of this chapter, or any rule or regulation promulgated under this chapter, in a manner which is determined by regulation of the department to threaten the health and safety of the children

provided family day care is guilty of a misdemeanor. Upon conviction thereof, such a person shall be punished by a fine not to exceed five hundred dollars ($500) or by imprisonment in the county jail for a period not to exceed 180 days, or by both such fine and imprisonment.

SEC. 13. 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 1234

An act to repeal Article 7 (commencing with Section 8120) of Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code, to amend Sections 10510, 15001, 15002, 15006, 15007, 15011, 15021, 15022, 15024, 15026, 15028, 15029, 15029.5, 15032, 15037, 15040, 15041, 15043, 15050, 15051, 15052, 15053, 15055, 15057, 15058, 15072, 15076, 15077, 15077.5, 15079, 15080, 15081, 15082, 15086, and 15087 of, to amend the headings of Chapter 3 (commencing with Section 15020), Chapter 4 (commencing with Section 15030), and Chapter 5 (commencing with Section 15040) of Division 8 of, to add Sections 10524, 15012, 15020.1, 15020.2, 15020.3, 15020.4, 15020.5, 15031.5, 15032.5, 15038.5, and 15057.5 to, to repeal Section 15009 of, and to repeal and add Sections 10521, 10522, and 10523 to the Unemployment Insurance Code, relating to employment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Article 7 (commencing with Section 8120) of Chapter 1 of Part 6 of Division 1 of Title 1 of the Education Code is repealed.

SEC. 2. Section 10510 of the Unemployment Insurance Code is amended to read:

10510. It is the intent of the Legislature, in enacting this chapter, to establish and implement a program of comprehensive and coordinated employment and training planning in California in accordance with the federal Job Training Partnership Act (P.L. 97-300). The Legislature recognizes the need for a new employment and training planning structure which will provide for comprehensive analysis of alternative expenditure possibilities for

the fiscal resources available in this field. The basic principles of the system are:

(a) That the employment and training needs at the local, regional, and state levels, be addressed.

(b) That the expenditure of available funds meets the needs at the local level.

(c) That employment and training programs be integrated into a uniform employment and training services planning system within substate regions.

(d) That a uniform planning system shall coordinate employment and training programs and eliminate duplication of programs among state and local agencies.

(e) That decisionmaking be decentralized, insofar as is practicable, to the governmental level closest to the people.

SEC. 3. Section 10521 of the Unemployment Insurance Code is repealed.

SEC. 4. Section 10521 is added to the Unemployment Insurance Code, to read:

10521. As used in this chapter:

(a) "State council" means the State Job Training Coordinating Council established pursuant to Chapter 4.5 (commencing with Section 15035) of Division 8.

(b) "Employment and training programs and services" means all programs and services provided in this state to increase employment or provide job search assistance or training to unemployed or underemployed persons, including those administered by state and local education and training agencies (including vocational education agencies), public assistance agencies, the employment service, rehabilitation agencies, postsecondary institutions, economic development agencies, and other agencies which have a direct interest in employment and training and human resource utilization in the state. This shall include, but is not limited to, the following:

(1) Programs operated pursuant to the Job Training Partnership Act (P.L. 97-300).

(2) Employment services, as authorized by the Wagner-Peyser Act.

(3) The Work Incentive Program, as authorized under Division 2 (commencing with Section 5000) and Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(4) Employment services to food stamp recipients, as authorized by Public Law 95-113.

(5) The Employment Preparation Program, as authorized under Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(6) The Employment Training Program for unemployed parents in families that qualify for assistance under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, as authorized by Article 3.6 (commencing with Section 11335) of

Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(7) The Supported Work Program, as authorized by Article 3.3 (commencing with Section 11321) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(8) The California Welfare Employment Skills Training Act, as authorized by Article 3.7 (commencing with Section 11340) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(9) The Career Opportunities Development Program, as authorized by Division 4 (commencing with Section 12000).

(10) The California Targeted Jobs' Tax Credit, as authorized by Sections 17053.7 and 24330 of the Revenue and Taxation Code.

(11) The California Work-Site Education and Training Program, as authorized by Chapter 2.7 (commencing with Section 9900) of Part 1 of Division 3.

(12) The State Service Center Program, as authorized by Executive Order 66-11, July 1966.

(13) The Job Agent Program, as authorized by Article 3 (commencing with Section 9700) of Chapter 3 of Part 1 of Division 3.

(14) The Youth Employment and Development Program, as authorized by Chapter 2.5 (commencing with Section 9800) of Division 3.

(15) Reemployment Assistance for Displaced Workers, as authorized by Chapter 2.8 (commencing with Section 9950) and Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3, and Section 14035.4 of the Government Code.

(16) Adult Education, as authorized by Chapter 10 (commencing with Section 52500) of Part 28 of Division 4 of Title 2 of the Education Code.

(17) Vocational education programs subject to the reporting requirements of the federal Vocational Education Act.

(18) The California Educational Opportunity Grant Program, as authorized by subdivision (c) of Section 69532 of the Education Code.

(19) Vocational education for inmates of correctional institutions, as authorized by Article 6 (commencing with Section 1120) of Chapter 3 of Part 1 of Division 2 of the Welfare and Institutions Code, and by Sections 2054, 2716, and 5091 of the Penal Code.

(20) The California Conservation Corps, as authorized by Division 12 (commencing with Section 14000) of the Public Resources Code.

(21) Apprenticeship programs, as authorized by Chapter 4 (commencing with Section 3070) of Division 3 of the Labor Code.

(22) The Employment Training Program, as authorized by Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(23) Economic and business development programs and services, as authorized by Part 6.7 (commencing with Section 15310) of Division 3 of Title 2 of the Government Code.

(24) The Small Business Development Program, as authorized by

Part 5 (commencing with Section 14000) of Division 3 of Title 1 of the Corporations Code.

(25) The business and industrial development programs, as authorized by Division 15 (commencing with Section 32000) of the Financial Code.

(26) The Industrial Development Financing Program, as authorized by Title 10 (commencing with Section 91500) of the Government Code.

(27) Child care services provided to permit parents to be employed or participate in training, as authorized by Chapter 2 (commencing with Section 8200) of Part 6 of Division 1 of Title 1 of the Education Code.

(28) Income maintenance programs for persons who would be employed but for a lack of employment opportunities, training, child care, or vocational rehabilitation, as authorized by Chapter 5 (commencing with Section 110) of Division 1, and Division 4 (commencing with Section 3200) of the Labor Code, Division 1 (commencing with Section 100), and Division 9 (commencing with Section 10000) of the Welfare and Institutions Code.

SEC. 5. Section 10522 of the Unemployment Insurance Code is repealed.

SEC. 6. Section 10522 is added to the Unemployment Insurance Code, to read:

10522. The state council shall prepare a coordination and special services plan for a two-year period consistent with the requirements of the federal Job Training Partnership Act and this chapter. The plan shall be submitted to the Governor and, within 30 days of submission to the United States Secretary of Labor, to the Legislature.

SEC. 7. Section 10523 of the Unemployment Insurance Code is repealed.

SEC. 8. Section 10523 is added to the Unemployment Insurance Code, to read:

10523. In developing the coordination and special services plan the state council shall identify, in coordination with the appropriate state agencies, the employment and training and vocational education needs of employers and of unemployed and underemployed persons throughout the state, and assess the extent to which employment and training programs and services available in the state represent a complete, consistent, integrated, and coordinated approach to meeting these needs. The state council shall also review plans of all state agencies which provide or impact employment, training, and related services.

SEC. 9. Section 10524 is added to the Unemployment Insurance Code, to read:

10524. The coordination and special services plan shall include the following:

(a) A description of the proposed use of resources available in this state for employment and training programs and services for a

two-year period, including oversight and support activities, priorities and criteria for incentive grants, and performance goals for state-supported programs.

(b) An evaluation of the experience of employment and training programs and services over the preceding two years.

(c) Recommendations with respect to ways to improve the effectiveness of employment and training programs and services in this state and ensure that these programs and services represent a complete, consistent, integrated and coordinated approach to meeting employment, training, and vocational education needs in this state.

SEC. 10. Section 15001 of the Unemployment Insurance Code is amended to read:

15001. It is the purpose of this division to establish a program of job preparation, training, and placement services which enable economically disadvantaged persons to participate fully in the mainstream of our economy and thereby promote the economic security of families they now head or will in the future head, and which carries out the objectives, purposes and provisions of the Aid to Families with Dependent Children (AFDC) program established pursuant to Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code. To achieve these purposes it is the intent of the Legislature that a service system be implemented which incorporates the following elements:

(a) Integration of benefits and services under the Aid to Families with Dependent Children program with employment services, including the following:

(1) Application and screening of eligible participants.

(2) Assessment of each participant's employment potential and training needs.

(3) Immediate job search assistance and imparting of self-help job search skills for employment in unsubsidized jobs.

(4) Placement in appropriate training programs for those participants not otherwise job ready.

(b) Integration of those state and federal job training programs now authorized by law and designed to serve persons eligible under this division.

(c) Overall program direction by the department whose functions under this division shall include:

(1) Overall direction, under the policies established by the State Job Training Coordinating Council, of the statewide programs administered in service delivery areas under this division, including establishment of basic program standards consistent with the provisions of this division and the provisions of Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, review of service delivery area plans, allocation and distribution to grant recipients selected within service delivery areas of funds from the block grant established pursuant to Chapter 8 (commencing with Section 15080), and assessment of

service delivery area performance based on standards that measure results rather than process.

(2) Administration, either directly or by contract with another entity, of these statewide programs in service delivery areas that request the state to assume this function.

(3) Administration of demonstration programs testing innovative approaches to assisting clients eligible under this division to find unsubsidized employment.

(4) Administration of special assistance programs to areas facing urgent employment and training needs that cross jurisdictional lines or that result from major plant closures, arrival and resettlement of a significant number of refugees, or comparable circumstances.

(d) Local administration and operation of the statewide programs under this division, in accordance with an approved service delivery area plan.

(e) Planning, design, and local oversight by local private industry councils pursuant to this division to ensure that the service delivery area plan responds appropriately to local economic conditions, local employment needs, and business and economic development strategies planned or being implemented within the area, as well as complies with the basic standards and provisions of this division.

(f) Streamlining of the funding for programs authorized under this division, in accordance with the following principles:

(1) Consolidation of funds in the Consolidated Work Program Fund pursuant to Section 15082, for distribution to the grant recipients selected within the service delivery areas to carry out the approved plans, of:

(A) Those federal and state funds heretofore appropriated on a categorical basis for various programs authorized to provide job preparation, training, and placement services, which programs are integrated by this division into the locally operated statewide programs.

(B) Other funds that the federal government may make available or the Legislature may appropriate for the statewide programs.

(2) Retention by the department of the following funding sources:

(A) The service delivery area's share of block grant funds distributed under paragraph (1), to support provision of services to service delivery area residents eligible under this division, in those service delivery areas where the state assumes this function in accordance with paragraph (2) of subdivision (c).

(B) Federal and state funds received for the operation of demonstration and special assistance programs serving persons eligible under this division. When a demonstration program and its funding level become suitable for statewide institutionalization, local administrative responsibility for the program shall be assigned to the administrative entity within the service delivery area and its funding shall be moved to the Consolidated Work Program Fund established under paragraph (1).

SEC. 11. Section 15002 of the Unemployment Insurance Code is

amended to read:

15002. The following definitions shall govern the construction of this division:

(a) "Director" means the Director of the department selected by the Governor to administer the provisions of this division.

(b) "Department" means the department selected by the Governor to administer the provisions of this division.

(c) "Local council" means the private industry council established in accordance with the provisions of this division.

(d) "State council" means the State Job Training Coordinating Council established under Chapter 4.5 (commencing with Section 15035) of Division 8.

(e) "State Occupational Information Coordinating Committee" means a committee composed of the Director of Employment Development, the Director of Economic and Business Development, the Superintendent of Public Instruction, the Chancellor of the California Community Colleges, the Director of Rehabilitation, and the chair of the state council or their designees, and the Executive Secretary of the Council for Private Postsecondary Institutions in the Department of Education.

(f) "Service Delivery Area plan" means that plan prepared for the service delivery area which satisfies the requirements of a Job Training Plan under the provisions of the federal Job Training Partnership Act and the additional requirements of this division .

SEC. 12. Section 15006 of the Unemployment Insurance Code is amended to read:

15006. The Legislature recognizes that counties are the units of local government designated to administer public assistance programs in California. It is the intent of the Legislature that access to public assistance benefits be integrated with access to employment and training services provided pursuant to this division. In the event that another unit of general government within a county or a consortium of units of general local government is also designated as a service delivery area pursuant to the federal Job Training Partnership Act, the service delivery area plan for that service delivery area shall describe the agreed upon methods and procedures whereby employment and training services to public assistance recipients are tied to and a part of the system of integrated access to Public Assistance and Employment and Training Services within the county. Counties shall provide full cooperation to those entities within the county administering a service delivery area plan to assist in the establishment of appropriate linkages.

SEC. 13. Section 15007 of the Unemployment Insurance Code is amended to read:

15007. The director, pursuant to policies established by the state council, shall allocate to units of general government designated as a service delivery area, such funds as may be determined prudent and necessary from funds available in the Consolidated Work Program Fund in excess of those funds provided by the federal Job

Training Partnership Act. Funds allocated from the Consolidated Work Program Fund shall be used in accordance with the enabling statutes of those programs in the fund.

SEC. 14. Section 15009 of the Unemployment Insurance Code is repealed:

SEC. 15. Section 15011 of Unemployment Insurance Code is amended to read:

15011. (a) In the event that available funding is not sufficient to provide the full range of services authorized under this division to all those meeting the eligibility standards specified in Section 15010, the department, pursuant to policies established by the state council, shall establish criteria to be used in service delivery areas in determining both of the following:

(1) The priority order among eligible persons for access to services.

(2) The priority order among the types of services to be provided.

These criteria shall provide sufficient flexibility in order that local service delivery area plans can respond to the needs of eligible groups for programs developed in response to local conditions.

(b) In establishing priority criteria, the department may establish proportions of funding that may be used for groups of eligible participants and for types of services, or the department may establish proportions of eligible groups to be served, or both.

(c) To the extent feasible, the priority order of eligible persons shall be in accordance with the order of eligibility set forth in Section 15010. In establishing priorities for services, special priority emphasis shall be given to those parents who are the sole heads of families with minor children.

SEC. 16. Section 15012 is added to the Unemployment Insurance Code, to read:

15012. Procedures and criteria for determining the eligibility of persons provided services under this division with federal funds received through the federal Job Training Partnership Act shall be in accordance with the provisions of that act.

SEC. 17. The heading of Chapter 3 (commencing with Section 15020) of Division 8 of the Unemployment Insurance Code is amended to read:

CHAPTER 3. SERVICE DELIVERY AREA ESTABLISHMENT AND RESPONSIBILITIES

SEC. 18. Section 15020.1 is added to the Unemployment Insurance Code, to read:

15020.1. The Governor shall, after receiving the recommended service delivery area designations of the State Job Training Coordinating Council, publish a proposed designation of service delivery areas. Counties, cities, city/counties, and all other persons or organizations shall be given the opportunity to comment on and request revision of the proposed designation of service delivery

areas.

SEC. 19. Section 15020.2 is added to the Unemployment Insurance Code, to read:

15020.2. Each service delivery area shall meet the following criteria:

(a) Be comprised of one or more units of general local government.

(b) Promote effective delivery of services to individuals pursuant to this division.

(c) Be consistent with labor market areas or standard metropolitan statistical areas.

(d) Be consistent with areas in which related services are provided under other state or federal programs.

SEC. 20. Section 15020.3 is added to the Unemployment Insurance Code, to read:

15020.3. The Governor shall approve a request to be a service delivery area from any of the following:

(a) Any unit of general local government with a population of 200,000 or more.

(b) Any consortium of contiguous units of general local government with an aggregate population of 200,000 or more which serves a substantial part of a labor market area.

SEC. 21. Section 15020.4 is added to the Unemployment Insurance Code, to read:

15020.4. The Governor shall give consideration to and may approve a request to be a service delivery area from any unit of general local government or consortium of contiguous units of general local government, with an aggregate population below 200,000, which served as a prime sponsor under the Comprehensive Employment and Training Act or which serves a substantial portion of a labor market area.

SEC. 22. Section 15020.5 is added to the Unemployment Insurance Code, to read:

15020.5. The final designation, approval, denial, or redesignation of service delivery areas by the Governor shall be consistent with the requirements of the Job Training Partnership Act (P.L. 97-300).

SEC. 23. Section 15021 of the Unemployment Insurance Code is amended to read·

15021. The private industry council and appropriate local elected officials in each service delivery area shall determine the entity to administer the service delivery area plan and the organization and structure necessary to administer the system of services provided pursuant to Section 15020. The administrative structure, however, shall provide for the integration of the application of and access to employment and training services with the local organizational structure for administering benefits under the Aid to Families with Dependent Children program and other public assistance programs. In addition, the private industry council and appropriate local elected officials in each service delivery area shall, to the extent

feasible, promote the integration of employment and training resources available within the service delivery area to eligible participants into a comprehensive employment services system.

SEC. 24. Section 15022 of the Unemployment Insurance Code is amended to read:

15022. All programs, services, policies, and procedures established in the service delivery area pursuant to the requirements of this division, including the expenditures of all public funds, shall be in accordance with the service delivery area plan, prepared in accordance with the provisions of Chapter 5 (commencing with Section 15040) and as approved by the department.

SEC. 25. Section 15024 of the Unemployment Insurance Code is amended to read:

15024. The entity administering the service delivery area plan in each service delivery area may contract with state departments or public and private agencies or organizations for the provision of services to persons eligible under this division who need or would benefit from such services. In selecting facilities for job training, institutional training or work experience programs under this division, it shall be determined whether existing private and public community facilities in the area are being utilized to the fullest extent before establishing any new facilities at public expense and this determination shall be documented within the plan prepared pursuant to Section 15043. In order to assure that the maximum utilization of existing facilities is accomplished where appropriate, the administering entity in each service delivery area shall notify all the facilities in the area prior to establishing new job training, institutional training, and work experience programs.

SEC. 26. Section 15026 of the Unemployment Insurance Code is amended to read:

15026. (a) In order to assure the proper and efficient management of the job preparation and training services system, management information and fiscal accounting systems as are necessary to meet federal, state, and local information, auditing, and control requirements shall be established and maintained. Reports shall be provided to the department containing such information as the department requires. The reporting requirements shall be determined with the assistance of local elected officials and private industry councils.

(b) The information systems established pursuant to this section shall, where appropriate, complement the centralized delivery system authorized in Chapter 4.1 (commencing with Section 10815) of Part 2 of Division 9 of the Welfare and Institutions Code.

SEC. 27. Section 15028 of the Unemployment Insurance Code is amended to read:

15028. If the director finds that employment and training services in a service delivery area are not being administered in compliance with the provisions of this division, he or she may notify the state council and request a hearing concerning whether funds

should be withheld from the service delivery area. The director shall notify the appropriate local elected officials and private industry council in the subject service delivery area of any such request. The state council shall set the matter for hearing within 30 days after the receipt of the request by the director, and shall recommend to the Governor what action should be taken, if any, within 15 days after the conclusion of the hearing.

If the state council recommends that funding should be withheld from the service delivery area it shall also recommend an entity or entities to provide employment and training services within the service delivery area until the appropriate local elected officials and private industry council offer reasonable assurances of their intention and ability to comply with the requirements of this division. If the director's findings involve fraud or misappropriation of funds, he or she may immediately withhold funds from the subject service delivery area pending the hearing by the state council and decision by the Governor.

SEC. 28. Section 15029 of the Unemployment Insurance Code is amended to read:

15029. The director shall investigate and shall make a formal declaration of findings regarding a complaint filed with the director by a recipient organization or a number of participants that present evidence of failure to comply with provisions of this division within a service delivery area. This declaration shall be made within 60 days of the complaint being filed. A copy of the declaration shall be transmitted to the state council.

SEC. 29. Section 15029.5 of the Unemployment Insurance Code is amended to read:

15029.5. (a) The director, upon review of the State Job Training Coordinating Council, may appeal to the United States Secretary of Labor for a reduction in the amount of a disallowed cost or a determination that no disallowed cost should be returned to the state by a service delivery area or by a service provider if it is found that an extenuating circumstance exists and that a good faith effort was made to properly administer programs. In the event the United States Secretary of Labor refuses to grant the appeal, the service delivery area shall be liable for disallowed costs which occur as a result of failure by the service delivery area to conform to federal or state laws or regulations, or both. The department shall develop regulations which define extenuating circumstances and good faith effort.

(1) The regulatory definition of "extenuating circumstances" shall include, but not be limited to, all of the following:

(A) Strikes and disasters.

(B) Errors by state staff in policy interpretation.

(C) Sudden and significant workload changes resulting from changes in law or regulations, or from significant and unpredictable participant growth.

(D) Failure of a governmental agency outside the control of the

service delivery area governing body or of the service provider to complete an agreed-upon activity.

(2) The regulatory definition of "good faith effort" shall be based upon factors including, but not limited to, all of the following:

(A) Demonstrated commitment to the elimination of errors, such as established priorities and goals, accountability for performance, and monitoring of progress.

(B) Consideration of clerical errors neither grossly negligent nor criminal.

(C) Sufficient quality operational systems designed to eliminate errors, such as use of computer clearance and review processes.

(D) Implementation of effective systems and procedures, such as error-prone profiles and corrective action committees for the statistical and program analysis of quality control and related data.

(b) Nothing in the section shall be construed to limit state authority to pass on federal fiscal sanctions to the service delivery areas on service providers, provided, however, that the portion of a federal sanction, due to differences between state and federal regulation, or due to failure by a governmental agency outside the control of the service delivery area's governing body on the service provider confirmed by the state and not apportionable to the agency, shall be apportioned to the state.

(c) The State Job Training Coordinating Council shall report to the Legislature, no later than 180 days following the effective date of this section, a recommended formula, developed with the assistance of the department and the private industry councils, which apportions fiscal responsibility for state and federal quality control sanctions between the state and the service delivery areas.

SEC. 30. The heading of Chapter 4 (commencing with Section 15030) of Division 8 of the Unemployment Insurance Code is amended to read:

CHAPTER 4. ESTABLISHMENT AND FUNCTIONS OF PRIVATE INDUSTRY COUNCILS

SEC. 31. Section 15031.5 is added to the Unemployment Insurance Code, to read:

15031.5. The Governor shall certify a private industry council if the Governor determines that its composition and appointments are consistent with the provisions of this chapter. Such certification shall be made or denied within 30 days after the date on which a list of members and necessary supporting documentation are submitted to the Governor. When the Governor certifies the council, it shall be convened within 30 days by the official or officials who made the appointments to such council pursuant to Section 15031. Certification of private industry councils under this section shall not be required prior to January 1, 1984.

SEC. 32. Section 15032 of the Unemployment Insurance Code is amended to read:

15032. It shall be the duty of the council to:

(a) Design and plan the program of job preparation and training services for the service delivery area, which shall include all of the following:

(1) Establishing the service delivery area's eligibility and services priorities.

(2) Determining the types of services and training to be provided.

(3) Determining the industries and occupations for training.

(4) Establishing criteria for the content and quality of training.

(5) Determining the entities which will deliver the training and services.

(6) Determining the annual utilization of available funds and resources and preparing the program budget.

(b) Survey local employment needs and local economic conditions, including a description of:

(1) Unemployed, underemployed and "discouraged" workers.

(2) Jobs lost and jobs created in the region.

(3) Local labor market supplies and migratory patterns.

(4) Labor force training needs and skills assessment.

(5) Linkages with small businesses.

(6) Economic development strategies, implemented or planned for the region and their employment impact.

(7) Employment by private industry receiving contracts, loans, industrial revenue bonds, grants, tax abatements or preferential zoning from the local governing body.

(c) Guide the development of the service delivery area plan prepared in accordance with the provisions of Chapter 5 (commencing with Section 15040) to assure that it conforms with the priorities, criteria and standards set forth by the council pursuant to subdivision (a).

(d) Monitor the performance of the job preparation and training services system to assure its compliance with the service delivery area plan, and through utilization of performance criteria established pursuant to this division, assess the levels of success achieved by the system. Where the system's performance is not up to standard, the council shall propose modifications which maximize successful outcomes.

(e) Assure that the system is fully responsive to the employment needs of the private sector, program participants, and the economic conditions occurring within the service delivery area, and assure that the system is compatible with and supportive of federal, state and local business and economic development activities occurring within the service delivery area.

(f) Promote the integration of the system with all other job training, vocational education, and employment services resources available within the service delivery area, including the joint development of plans with the Employment Development Department for local offices for employment services including the Work Incentive Program, and local educational agencies for

vocational education programs pursuant to the provisions of Chapter 7 (commencing with Section 15070).

(g) Promote the transition of participants served by the system into full-time unsubsidized jobs with special emphasis on nontraditional jobs in the private sector for women.

(h) Consult quarterly with the local child care resource and referral agency to review data on the need for child care and development services for participants eligible for services under this division.

(i) Develop and implement a plan for participation in the planning process, program development, and program evaluation by representatives of eligible participants and service providers within the service delivery area, including all types of public and private vocational education agencies and schools, public assistance recipients, participants in services under this division, and child care resource and referral agencies.

(j) Prepare and distribute to interested parties a quarterly program assessment for review and comment.

SEC. 33. Section 15032.5 is added to the Unemployment Insurance Code, to read:

15032.5. The private industry council, in order to carry its functions:

(a) Shall, in accordance with its plan, prepare and approve a budget for itself.

(b) May hire staff, incorporate, and solicit and accept contributions and grant funds from other sources.

(c) Shall have access to information concerning the operation of programs covered under the service delivery area plan.

SEC. 34. Section 15037 of the Unemployment Insurance Code is amended to read:

15037. The state council shall:

(a) Recommend to the Governor and the Legislature a coordination and special services plan in accordance with Chapter 4.5 (commencing with Section 10510) of Part 1 of Division 3.

(b) Report to the Legislature on or before March 1 each year concerning the consistency of the Governor's proposed budget with the coordination and special services plan.

(c) Recommend to the Governor local service delivery areas. To the extent permitted by federal law, designation of service delivery areas shall reflect the intent of the Legislature to integrate and coordinate employment and training services, public assistance programs, and other educational and training efforts as may exist which are designed to assist individuals in preparing for participation in the labor force.

(d) To the extent permitted by federal law, establish policies which shall be followed by the department in performing all of the following functions:

(1) Approval of local service delivery area plans.

(2) Establishment of standards, criteria and reporting

requirements established by the department pursuant to this division with respect to local service delivery area plans.

(3) Allocation of funds for local service delivery area plans.

(e) Review and approve both of the following:

(1) The allocation of federal funds received by the state pursuant to Section 202 (b) and Title III of the federal Job Training Partnership Act. The state council shall be deemed to have approved the disbursement of funds when the Governor approves a decision of the state council specifying a budget for an authorized program or activity and designating the department or agency responsible for the expenditure of the budgeted funds.

(2) The annual labor market and occupational supply and demand information plan developed pursuant to Section 15057.5.

(f) Consider and advise the director on all matters connected with the administration of this code as submitted to it by the director, and may upon its own initiative recommend changes in administration as it deems necessary.

(g) Review and comment to the Governor and the Legislature on the annual report prepared in accordance with Section 15064.

(h) Serve as the body responsible for making recommendations to the Governor when the director proposes to withdraw funding pursuant to Section 15028.

SEC. 36. Section 15038.5 is added to the Unemployment Insurance Code, to read:

15038.5. The state council shall meet at such times and in such places as it deems necessary.

SEC. 37. The heading of Chapter 5 (commencing with Section 15040) of Division 8 of the Unemployment Insurance Code is amended to read:

CHAPTER 5. SERVICE DELIVERY AREA PLANS

SEC. 38. Section 15040 of the Unemployment Insurance Code is amended to read:

15040. A service delivery area plan shall be prepared in accordance with an agreement or agreements between the local private industry council and the chief elected official or officials in the service delivery area. The plan shall conform to the provisions of this division and the criteria, rules, and procedures established pursuant to this division. The service delivery area plan shall be prepared in accordance with the requirements and provisions of this division and the federal Job Training Partnership Act.

SEC. 39. Section 15041 of the Unemployment Insurance Code is amended to read:

15041. To receive any federal and state funds appropriated for the purposes and requirements of this division, a service delivery area shall operate under and adhere to a plan approved in accordance with this division.

SEC. 40. Section 15043 of the Unemployment Insurance Code is

amended to read:

15043. Service delivery area plans shall contain provisions required by the federal Job Training Partnership Act and this division, including but not necessarily limited to, the following:

(a) A description of the service delivery area's system for administering and delivering services including private industry council membership.

(b) A description of, and the rationale for, the service delivery area's eligibility and services priorities, the types of services and training provided, the industries and occupations of training, the criteria for the content and quality of training, the entities delivering services, and the performance measures used.

(c) A description of the coordination with and the uses made of other agencies and organizations within the service delivery area providing job training, vocational education, client advocacy, child care and employment services, which shows the value of these other resources in addressing the needs reflected in the plan.

(d) A proposed budget for the planning period describing program objectives, services to be provided for the purpose of achieving those objectives, the sources and amounts of funds to be allocated to each type of service, and estimates of the number of persons in each eligibility category in need and the number of persons in each eligibility category to be served by each type of service. The budget shall also describe administrative objectives, the purpose and rationale for such objectives, and the sources and amounts of funds to be allocated to each objective.

(e) A status report on the activities of the current fiscal year describing progress toward achieving program and administrative objectives as well as other legislative requirements imposed by the current budget, including the current status and financial condition of the federal and state funds allocated to the service delivery area and the capacity to meet current year objectives.

(f) A description of the activities, financial condition and accomplishments of the service delivery area's job preparation and training services program for the preceding fiscal year, including a description of the extent to which program and administrative objectives set forth for that year were realized, and a description of expenditures by sources of funds for services provided pursuant to this division in that year.

(g) A description of the condition of job preparation and training services taking place in the service delivery area, including an analysis of issues confronting the program and recommendations appropriate to resolve such issues.

(h) A description of the unmet childcare needs of participants eligible for services under this division, including an assessment of the role of employers in reducing this barrier to participation.

SEC. 41. Section 15050 of the Unemployment Insurance Code is amended to read:

15050. The Governor shall, after receiving the recommendation

of the State Job Coordinating Council, designate directly or by contract the agency or agencies responsible for the provisions of this division.

The functions of the Governor's designee shall include:

(a) Overall direction, pursuant to the policies established by the state council of the statewide programs operated by service delivery areas under this division.

(b) Administration, either directly or by contract with another entity, of these statewide programs in service delivery areas that request the state to assume this function.

(c) Administration of special assistance programs to areas facing urgent employment and training needs that cross jurisdictional lines or result from major plant closures under the provisions of Chapter 7.5 (commencing with Section 15075), arrival and resettlement of significant numbers of refugees, or comparable circumstances. Nothing in this section shall be construed as modifying the manner in which federal Office of Refugee Resettlement Funds are used in this state.

(d) The Employment Development Department shall be responsible for the administration of demonstration programs testing innovative approaches to assisting clients eligible under this division to find unsubsidized employment, which include, but are not limited to:

(1) The Employment Preparation Program, as authorized by Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) The Employment Training Program for unemployed parents in families that qualify for assistance under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, as authorized by Article 3.6 (commencing with Section 11335) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(3) The Supported Work Program, as authorized by Article 3.3 (commencing with Section 11321) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(4) The California Welfare Employment Skills Training Act, as authorized by Article 3.7 (commencing with Section 11340) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(5) The Youth Employment and Development Act, as authorized by Chapter 2.5 (commencing with Chapter 9800) of Division 3.

(6) The Regional Employment Assessment, Job Search Assistance, and Placement Services for Displaced Workers Act of 1982, as authorized by Chapter 2.9 (commencing with Section 9970) of Division 3.

To the extent feasible, in implementing demonstration programs designed for eventual merger into the statewide programs operated by the administrative entity in service delivery areas under this division, the Employment Development Department shall involve appropriate local agencies in program planning and operation within the demonstration sites. Once such demonstration programs are

completed, if they have proven to be effective in achieving the intent and objectives of this division, the Employment Development Department shall take the steps necessary to ensure their implementation and integration wherever appropriate within the statewide employment and training programs operated by the administrative entity in the service delivery areas.

SEC. 42. Section 15051 of the Unemployment Insurance Code is amended to read:

15051. The department shall establish such rules, regulations, and procedures as are necessary to govern the administration of the provisions of this division and to assure that the legislative purposes and intent are carried out. The regulations shall include to the extent permitted by federal law:

(a) Standards and criteria for determining eligibility and services priorities pursuant to Section 15011. These shall include, but are not limited to, standards for insuring that a service delivery area plan gives appropriate priority to public assistance recipients.

(b) Standards for determining appropriate and allowable services and training activities, and entities providing services and training. These shall include, but are not limited to, insuring that all occupational skill training correspond to area labor market demand, insuring that any training entity providing services has a demonstrated record of past performances in training and placing persons in unsubsidized private sector employment or offers reasonable assurance that services provided will result in these placements, and prohibiting contracting with entities whose officers have been convicted of fraud or misappropriation of funds within the last two years.

(c) Standards and criteria to be used in developing plans. These shall include, but are not limited to, appropriate placement goals and requirements for adequate public notice and opportunity for public involvement in the development of service delivery area plans.

(d) Standards, criteria, and procedures to be used by the department in evaluating and approving service delivery area plans.

(e) Standards for assuring adequate, efficient service delivery area administration including standards for assuring efficient service delivery area management information and financial accounting systems.

(f) Standards and criteria for assuring effective coordination and linkages with other agencies that deliver training and employment-related services.

SEC. 43. Section 15052 of the Unemployment Insurance Code is amended to read:

15052. The department shall review and approve plans submitted under the provisions of Chapter 5 (commencing with Section 15040) and Chapter 7.5 (commencing with Section 15075) in accordance with established standards and criteria for determining the adequacy of a plan and shall allocate federal and state funds to the grant recipient in a service delivery area only upon approval of

the plan.

SEC. 44. Section 15053 of the Unemployment Insurance Code is amended to read:

15053. The department shall allocate to the grant recipient in each service delivery area an amount of the federal and state funds annually appropriated for the purposes and requirements of this division in accordance with the federal Job Training Partnership Act and this division. Funds may be allocated to the grant recipient in each service delivery area on the basis of performance to the extent authorized by federal law and this division.

SEC. 45. Section 15055 of the Unemployment Insurance Code is amended to read:

15055. The department shall develop standards whereby the performance of programs in the service delivery area can be measured. The department shall provide each service delivery area with these performance standards in order that local private industry councils can assess program achievements of the service delivery area. The standards shall:

(a) Recognize that performance may vary among the service delivery areas due to economic conditions and to the employability barriers confronting their eligible populations.

(b) Be based on participant outcome measures that are related to the services provided, including obtaining unsubsidized employment, tenure of employment, adequacy of wages received, comparisons of wages before and after training, and other such measures as the department may determine appropriate.

(c) Be able to measure the avoidance of costs that would have occurred had the employment and training services not been provided in comparison with the costs of providing such services.

(d) Accommodate delays in job placement following completion of training services due to illness or other circumstances, including pregnancy.

SEC. 46. Section 15057 of the Unemployment Insurance Code is amended to read:

15057. The Employment Development Department shall assure that the services and resources provided by its labor exchange function, labor market information system, and employment services network, including job agents, are fully supportive of the service delivery areas. The Employment Development Department shall assure that its local offices develop operational plans which are coordinated with and support the development and operation of annual plans prepared pursuant to this division.

SEC. 47. Section 15057.5 is added to the Unemployment Insurance Code, to read:

15057.5. (a) The State Occupational Information Coordinating Committee shall develop and annually update a plan for the use of available resources to design and implement a statewide comprehensive labor market and occupational supply and demand information system as specified in Section 125 of the federal Job

Training Partnership Act (Public Law 97-300). The plan shall be submitted to the state council no later than May 1 of each year.

The plan shall, at the minimum, include the following:

(1) The proposed design of a labor market and occupational supply and demand information system for this state, meeting the requirements of Section 125 of the federal Job Training Partnership Act.

(2) Proposed activities in implementing the labor market and occupational supply and demand information system for the fiscal year.

(3) The amount and proposed use of each funding source available for the labor market and occupational supply and demand information system.

(b) The State Occupational Information Coordinating Committee shall seek and obtain funds or in-kind contributions to the maximum extent possible from the National Occupational Information Coordinating Committee and other federal, state, and private sources, and may accept and use any such funds or in-kind contributions for the purposes of this section.

SEC. 48. Section 15058 of the Unemployment Insurance Code is amended to read:

15058. The department shall make every effort to assure the maximum cooperation by other state departments and agencies and to assure that resources and services provided by the other state departments and agencies shall be, to the maximum extent possible, coordinated with plans and made available to participants served by those plans.

SEC. 49. Section 15072 of the Unemployment Insurance Code is amended to read:

15072. To assure compliance with legislative intent regarding the content and availability of employment services provided by the Employment Development Department, the local elected official or officials and the private industry council shall, pursuant to the federal Wagner-Peyser Act, as amended, develop jointly with local offices of the department operating within the service delivery area the employment services and training plans prepared pursuant to Division 3 (commencing with Section 9000).

SEC. 50. Section 15076 of the Unemployment Insurance Code is amended to read:

15076. The private industry councils established in each service delivery area shall prepare an employment and training plan for displaced workers, which shall provide for each of the following:

(a) Identification, in conjunction with offices of the Employment Development Department in the area or displaced worker assistance centers established by the department in accordance with Chapter 2.9 (commencing with Section 9970) of Part 1 of Division 3, of individuals eligible for assistance due to any of the following facts:

(1) The individuals have been terminated or laid off or have received a notice of termination or layoff from employment, are

eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation.

(2) The individuals have been terminated or have received a notice of termination of employment, as a result of any permanent closure of a plant or facility.

(3) The individuals are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which they reside, including older individuals who have had substantial barriers to employment by reason of age.

(b) Determination of job opportunities which exist within the local labor market area or outside the labor market area for which displaced workers could be retrained. This determination shall be undertaken in conjunction with both of the following:

(1) Labor market analysts of the Employment Development Department.

(2) As appropriate, representatives of the Department of Economic and Business Development in accordance with its functions pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(c) Determination of what training for identified employment opportunities exists or could be provided within the local area. This determination shall be undertaken in conjunction with representatives designated by the agencies responsible for implementation of the Displaced Worker Education and Training Act pursuant to Chapter 2.8 (commencing with Section 9950) of Part 1 of Division 3.

(d) Informing eligible displaced workers of training opportunities. This process shall be undertaken in conjunction with offices of the Employment Development Department in the area or displaced worker assistance centers established by the department.

(e) A program for displaced worker assistance drawing, as appropriate, upon existing facilities and resources, which may include, but not be limited to, all of the following:

(1) Displaced worker employment services and related assistance, including all of the following:

(A) Job search assistance.

(B) Job development.

(C) Support services, such as financial and personal counseling, child care and related children's services, and assistance in obtaining equipment and supplies necessary for retraining or new employment.

(D) Relocation assistance, if it is determined that an eligible individual cannot obtain employment in the commuting area and has secured suitable long duration employment or a bona fide job offer in another area in the state.

(E) Prelayoff assistance.

(F) Programs conducted in cooperation with employers or labor

organizations to provide early intervention in the event of closures of plants or facilities.

(2) Training in job skills for which demand exceeds supply, in accordance with the provisions of the Displaced Worker Education and Training Act pursuant to Chapter 2.8 (commencing with Section 9950) or the Employment Training Program pursuant to Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(3) Commuting assistance, consistent with the provisions of the displaced worker transportation program established pursuant to Section 14002.5 of the Government Code.

(f) Consultation with affected labor organizations, in the case of any assistance program which will provide services to a substantial number of members of these labor organizations.

(g) Involvement of displaced workers in program delivery, including, as appropriate, paid employment for these individuals in providing services under the program.

(h) Utilization of services and resources from other sources, public and private, and specific procedures for coordination with other programs, in order to maximize services for displaced workers and their families and increase employment and training opportunities. Examples of programs to be included are the following:

(1) Other employment and training and education programs.

(2) Social services, including child care and related children's services.

(3) Housing programs, including low-income weatherization and home energy conservation programs.

(4) Transportation related programs, including highway, bridge, and mass transit construction and repair.

(5) Other programs related to infrastructure development and repair.

(6) Economic development programs deemed applicable.

(i) Contracting with the Employment Development Department in order to provide funding for special services the department is to provide under the local displaced worker assistance program.

(j) Coordination with neighboring jurisdictions, in cases of plant closings or mass layoffs which cross service delivery areas.

(k) A system of program and fiscal accountability to ensure maximum benefit from the expenditure of federal and state funds and which is consistent with procedures established in the state's job training plan pursuant to Section 121 of Public Law 97-300, the federal Job Training Partnership Act, including all of the following:

(1) Performance goals and standards, including sample measures or estimates of all of the following:

(A) Placement and retention in unsubsidized employment.

(B) Earnings and wages.

(C) Reduction in unemployment insurance and public assistance costs.

(2) Procedures for reporting on the outcome of the program

which include all of the following:

(A) A description of activities conducted.

(B) Characteristics of participants.

(C) The extent to which the activities conducted achieved relevant performance goals.

(3) Fiscal control, accounting, audit and related provisions.

The plan shall be reviewed, during a 30-day period, by the private industry council and the board of supervisors or other applicable local elected officials. Their written recommendations regarding state approval of the program shall be included prior to submission of the plan to the department.

SEC. 51. Section 10577 of the Unemployment Insurance Code is amended to read:

15077. The department shall. with the assistance of the California Economic Adjustment Team established pursuant to Article 3.5 (commencing with Section 15340) of Chapter 1 of Part 6.7 of Division 3 of the Government Code, do all of the following:

(a) Review and approve the plans for displaced workers assistance programs submitted by private industry councils.

(b) Coordinate displaced workers assistance efforts in situations where plant closures or layoffs within an industry have a significant statewide impact.

(c) Encourage and coordinate early identification of situations of potential plant closures, and provide any assistance which may be necessary to alleviate economic dislocation.

(d) Provide assistance to the Department of Business and Economic Development in active recruitment of replacement industries or establishments.

(e) Cooperate with the Employment Training Panel in the coordination of training and services for displaced workers eligible under Chapter 3.5 (commencing with Section 10200) of Part 1 of Division 3.

(f) Serve as the state agency providing any information and procedural activities which may be required by the federal government to ensure federal funding.

(g) Provide for the submission of applications to the United States Secretary of Labor for additional federal funding to the state in accordance with the national program defined in Section 301 of Public Law 97-300.

(h) Recommend to the Governor necessary components of state plans under the jurisdiction of other state offices, departments or agencies which administer programs appropriate for coordination with displaced worker assistance programs, pursuant to the provisions of this chapter and Section 308 of Public Law 97-300.

SEC. 52. Section 15077.5 of the Unemployment Insurance Code is amended to read:

15077.5. (a) A special statewide program of assistance for displaced workers shall be available to address sudden or severe economic dislocation under any of the following circumstances:

(1) A community, through its private industry council, board of supervisors, or other applicable local elected officials, requests or accepts state services.

(2) The private industry council does not submit a program plan to the state within 30 days after notification by the Employment Development Department of a plant closure or mass layoff, or if the state determines that the plan does not sufficiently meet the needs of displaced workers.

(3) Where a plant closure or substantial reduction in employment at a worksite affects workers residing in more than one service delivery area, and there is no coordinated plan among affected areas.

(b) The department, in accordance with policies established by the state council, shall provide special initiatives in statewide economic development programs, including, but not limited to, employer contracts with the state to provide services.

(c) The department may request that appropriate entities, consistent with this chapter, prepare state plans for services under the circumstances specified in this section.

(d) Employment related services in these plans shall be principally under the supervision of the Employment Development Department. They shall be in accordance with the provisions of employment and training plans for displaced workers defined in Section 15076.

(e) Training in these programs shall be in job skills for which demand exceeds supply and shall be consistent with the provisions of paragraph (2) of subdivision (e) of Section 15076.

SEC. 53. Section 15079 of the Unemployment Insurance Code is amended to read:

15079. In order to maximize employment and training services to displaced workers, it is the intent of the Legislature that subsistence assistance for workers enrolled in retraining be financed through unemployment insurance funds, in accordance with the provisions of Article 1 (commencing with Section 1274) of Chapter 5 of Part 1 of Division 1, and Section 1274.35. The Employment Development Department shall report annually, based on projections prepared by the Employment Development Department, estimated costs to the unemployment insurance fund for this purpose. This report shall be submitted to the Governor and the Legislature by November 15 of each year.

SEC. 54. Section 15080 of the Unemployment Insurance Code is amended to read:

15080. The funding for services authorized under this division is to be administered through:

(a) A Consolidated Work Program Fund combining state and, to the extent permitted by federal law, federal funds received for the support of state and locally administered statewide programs.

(b) Appropriate state and federal categorical funds for demonstration and special assistance programs administered by the department.

SEC. 55. Section 15081 of the Unemployment Insurance Code is amended to read:

15081. The Consolidated Work Program Fund shall provide a single source of funding to be allocated by the department to service delivery areas in accordance with the requirements of Sections 15007 and 15053 for funding services provided pursuant to service delivery area plans and the provisions of this division. The purpose of the Consolidated Work Program Fund is to assure more efficient, equitable, and appropriate use of available resources and to provide greater flexibility in responding to the needs of persons receiving services under service delivery area plans.

Nothing in this division shall be construed to preclude the provision of funds through service delivery area plans for programs or services designed to serve the employment needs of disabled individuals otherwise eligible for services under the provisions of Chapter 2 (commencing with Section 15010) or to require funds transferred pursuant to subdivision (d) of Section 15082 to be allocated to service delivery areas.

SEC. 56. Section 15082 of the Unemployment Insurance Code is amended to read:

15082. Federal and state funds to be transferred to the Consolidated Work Program Fund shall include:

(a) That portion of the federal employment and training funds received by the state that is designated for the purpose of local delivery of employment and training services.

(b) Moneys heretofore appropriated to the:

(1) Work Incentive Program authorized under Division 2 (commencing with Section 5000) of this code and Article 3 (commencing with Section 11300) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code. These funds shall not be placed into the consolidated fund until July 1, 1984, contingent upon the feasibility report required by Section 12 of Assembly Bill 3424 as enacted during the 1982 portion of the 1981–82 Regular Session, recommending the transfer and a later enacted statute requiring such a transfer.

(2) Employment services to food stamp recipients as authorized by federal law pursuant to Public Law 95-113.

(c) Reinvestment of a portion of state public assistance grant savings reasonably attributable to the operation of this program. The Governor's Budget shall annually identify such savings resulting from the prior fiscal year's program operations and recommend the portion, if any, to be applied toward program funding during the budget year.

(d) Federal funds received by the state pursuant to Section 202(b) and Title III of the federal Job Training Partnership Act. However, these funds shall be allocated pursuant to subdivision (e) of Section 15037.

SEC. 57. Section 15086 of the Unemployment Insurance Code is amended to read:

15086. The Employment Development Department shall administer federal and state funds appropriated for the support of the following demonstration and special assistance programs serving persons eligible under this division:

(a) The Youth Employment and Development Act, as authorized by Chapter 2.5 (commencing with Section 9900) of Division 3.

(b) The Supported Work Program, as authorized by Article 3.3 (commencing with Section 11321) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(c) The Employment Preparation Program, as authorized by Article 3.5 (commencing with Section 11325) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(d) The Employment Training Program for unemployed parents in families that qualify for assistance under paragraph (2) of subdivision (a) of Section 11201 of the Welfare and Institutions Code, as authorized by Article 3.6 (commencing with Section 11335) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(e) The California Welfare Employment Skills Training Act, as authorized by Article 3.7 (commencing with Section 11340) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(f) Reemployment assistance for displaced workers.

SEC. 58. Section 15087 of the Unemployment Insurance Code is amended to read:

15087. Upon completion of demonstration programs which it has administered, the Employment Development Department shall take all steps necessary to ensure the implementation and integration within the service delivery area's employment and training services programs of those demonstration models of proven effectiveness for achieving the intent and objectives of this division.

SEC. 59. This act is an urgency statute necessary for the immediate preservation of 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 provisions necessary for the implementation of the federal Job Training Partnership Act, it is necessary for this act to take effect immediately.

CHAPTER 1235

An act to amend Section 11482 of, and to add Sections 11482.5 and 11483.5 to, the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 11482 of the Welfare and Institutions Code is amended to read:

11482. Any person other than a needy child, who willfully and knowingly, with the intent to deceive, makes a false statement or representation or knowingly fails to disclose a material fact to obtain aid, or who, knowing he is not entitled thereto, attempts to obtain aid or to continue to receive aid to which he is not entitled, or a larger amount than that to which he is legally entitled, is guilty of a misdemeanor, except as specified in Section 11482.5.

SEC. 2. Section 11482.5 is added to the Welfare and Institutions Code, to read:

11482.5. Any person who knowingly makes more than one application for aid with the intent of establishing multiple entitlements for any person for the same period, or who makes an application for aid by claiming a false identity for any person or by making an application for a fictitious or nonexistent person, is guilty of a felony punishable by imprisonment in the state prison for 16 months or for two or three years, or by imprisonment in the county jail.

SEC. 3. Section 11483.5 is added to the Welfare and Institutions Code, to read:

11483.5. Any person who obtains more than one aid payment for any person as a result of knowingly making more than one application for aid with the intent of establishing multiple entitlements for that person during the same period, or who obtains aid for any person by making an application claiming a false identity or by making an application for a fictitious or nonexistent person, is guilty of a felony, punishable by imprisonment in the state prison for 16 months or for two or three years, or by imprisonment in the county jail.

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 1236

An act to amend Sections 17052.5, 17250, 23601, and 24349 of, and to repeal Section 24349 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 17052.5 of the Revenue and Taxation Code is amended to read:

17052.5. (a) (1) There shall be allowed as a credit against the amount of "net tax" (as defined in Section 17039), an amount equal to the amount determined in paragraph (2), (3), or (6).

(2) Except as provided in subparagraphs (A) and (D) of this paragraph, the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (h)) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. For any such solar energy system installed on or after August 1, 1983, the percentage specified by this paragraph, subparagraph (C), subparagraph (A) of paragraph (6), and subdivision (g) shall be 50 percent. The credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in subdivision (h).

(A) Only the owner of the premises (as defined in subdivision (h)) on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election, if necessary, by a written document signed by the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations which qualify for this credit, the credit shall be as defined in paragraph (2).

(B) The solar energy tax credit shall be claimed in the state income tax return for the taxable year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new dwelling on which the system is installed may claim the credit for the taxable year during which the purchaser's escrow closed or the taxable year during which the purchaser acquired legal title to the dwelling.

(C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy

system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formula in this paragraph, so long as the total amount of the credit claimed does not exceed three thousand dollars ($3,000) per system.

(D) With regard to recreational or therapeutic solar energy water heating systems, the amount of the credit allowed by this section shall be 45 percent of the cost of the system for systems installed between January 1, 1981, and December 31, 1981, 35 percent of the cost of the system for systems installed between January 1, 1982, and December 31, 1982, and 25 percent of the cost of the systems installed after January 1, 1983, and before August 1, 1983. Such credit shall not exceed three thousand dollars ($3,000). No credit shall be allowed pursuant to this section with regard to recreational or therapeutic solar energy water heating systems installed on or after August 1, 1983.

(3) With regard to premises in California which are owned by the taxpayer, other than dwellings, the amount of the credit allowed by this section shall be 25 percent of the cost (as defined in subdivision (h)) of the solar energy system.

A taxpayer who claimed the solar energy tax credit in the state income tax return for the taxable year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed by this paragraph.

(4) If a solar energy system serves two or more dwellings, the owner or owners of the system shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (7)) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in paragraph (2) or (6) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the date of installation of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the dates of installation of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy

conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who lease a solar energy system installed on premises in California shall receive a tax credit as provided in subparagraphs (A) or (B) provided the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (h)) of the purchased portion, and 55 percent of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars ($3,000) for each system. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchased portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, the percentage specified by this subparagraph shall be 50 percent.

(B) In the case of premises other than dwellings, the credit shall equal 25 percent of the cost (as defined in subdivision (h)) of the purchased portion and 25 percent of the principal recovery portion (as defined in subdivision (h)) of the lease payments for the term of the lease, not to exceed 10 years.

(7) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit provided by this section shall be reduced by any grant provided by a public entity for such system.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and any grant provided by a utility or public agency for such solar energy system. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(c) With the exception of a husband and wife, if there is more than one owner of a premises on which a solar energy system is installed, each owner shall be eligible to receive the solar energy tax credit in proportion to his or her ownership interests in the premises.

(d) In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement. In the case of a husband or wife who files a separate return, the credit may be taken by either or equally divided between them.

(e) In the case where the credit allowed under this section exceeds the "net tax" for the taxable year, that portion of the credit which exceeds such "net tax" may be carried over to the "net tax" in succeeding taxable years, until such credit is used. The credit shall be applied first to the earliest years possible. With regard to solar energy systems installed between August 1, 1983, and December 31, 1983, no more than 50 percent of the allowable credits under this section shall be applied against the taxpayer's "net tax" for the 1983 taxable year. The remaining portion of the credit shall be carried over to succeeding taxable years until such credit is used.

(f) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(g) To the extent that federal energy tax credits are allowed or allowable for costs incurred by a taxpayer for the purchase and installation of a solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) and subparagraph (A) of paragraph (6) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (e). For any solar energy system installed on or after August 1, 1983, the percentage specified by this subdivision shall be 50 percent.

(h) For purposes of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Cost" includes all of the following:

(A) Equipment and installation charges.

(B) Compensation paid to the owner of burdened property in connection with the acquisition of a solar easement, as defined in Section 801.5 of the Civil Code, and the fees for the recording of this easement.

(C) In the case of a system which is leased, the principal recovery portion of lease payments, which is the cost incurred by the taxpayer in acquiring the solar energy system excluding interest charges and maintenance expenses.

"Cost" does not include interest charges and costs associated with the acquisition of an easement other than a solar easement.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder

of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means the principal stationary location in California where the system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.

(5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes single-family residences, mobilehomes, and the individual units of condominiums, cooperatives, apartment buildings, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Water heating.

(ii) Space conditioning.

(iii) Production of electricity.

(iv) Process heat.

(v) Solar mechanical energy.

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the collection, conversion, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living or commercial space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses or which issues permits to companies engaged in the leasing of this equipment.

(i) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take depreciation pursuant to Section 17250. In addition, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.

(j) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(k) 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 this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.

SEC. 2. Section 17250 of the Revenue and Taxation Code is amended to read:

17250. (a) The provisions of Section 168 of the Internal Revenue Code shall not be used to determine what is a reasonable allowance for purposes of Section 167(a) of the Internal Revenue Code.

(b) No deduction shall be allowed for any of the following:

(1) Amortization of certain railroad rolling stock as provided for by Section 184 of the Internal Revenue Code.

(2) Amortization of railroad grading and tunnel bores as provided for by Section 185 of the Internal Revenue Code.

(c) The deduction for amortization of pollution control facilities shall be determined in accordance with Section 17251, in lieu of Section 169 of the Internal Revenue Code.

(d) The capitalization of expenditures incurred in planting and developing fruit and nut groves shall be determined in accordance with Section 17261, in lieu of Section 278 of the Internal Revenue Code.

(e) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period for taxable years beginning before January 1, 1987.

SEC. 3. Section 23601 of the Revenue and Taxation Code is amended to read:

23601. (a) (1) There shall be allowed as a credit against the taxes imposed by this part (except the minimum franchise tax and the tax on preference income), an amount equal to the amount determined in paragraph (2), (3), or (6).

(2) Except as provided in subparagraphs (A) and (D) of this paragraph, the amount of the credit allowed by this section shall be 55 percent of the cost (as defined in subdivision (f)) incurred by the taxpayer for any solar energy system installed on premises in California which are owned by the taxpayer at the time of installation. For any such solar energy system installed on or after

August 1, 1983, the percentage specified by this paragraph, subparagraph (C), paragraph (6) (A), and subdivision (e) shall be 50 percent. Such credit shall not exceed three thousand dollars ($3,000) per solar energy system as defined in subdivision (f).

(A) Only the owner of the premises (as defined in subdivision (f)) on which the solar energy system is installed may claim the tax credit for costs incurred; however, an owner-builder or owner-developer of new single-family dwellings may elect not to claim the solar energy tax credit for any or all systems installed on new dwellings. If an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new single-family dwelling on which the system is installed may claim the credit provided that the purchaser can confirm the election if necessary, by a written document signed by the owner-builder or owner-developer.

If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any system for which the federal credit is allowed, the credit shall be equal to 15 percent of the cost of these systems. If an owner-builder or owner-developer of new single-family dwellings elects to claim the credit for any other installations which qualify for this credit, the credit shall be as defined in paragraph (2).

(B) The solar energy tax credit shall be claimed in the state return for the income year in which the solar energy system was installed; however, if an owner-builder or owner-developer irrevocably elects not to claim the tax credit for a solar energy system, the original purchaser of the new dwelling on which the system is installed may claim the credit for the year during which the purchaser's escrow closed or the year during which the purchaser acquired legal title to the dwelling.

(C) A taxpayer who claimed the solar energy tax credit in the state income tax return for the income year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems on the basis of the formula in this paragraph, so long as the total amount of the credit claimed does not exceed three thousand dollars ($3,000) per system.

(D) With regard to recreational or therapeutic solar energy water heating systems, the amount of the credit allowed by this section shall be 45 percent of the cost of the system for systems installed between January 1, 1981, and December 31, 1981, 35 percent of the cost of the system for systems installed between January 1, 1982, and December 31, 1982, and 25 percent of the cost of the systems installed after January 1, 1983, and before August 1, 1983. Such credit shall not exceed three thousand dollars ($3,000). No credit shall be allowed pursuant to this section with regard to recreational or therapeutic solar energy water heating systems installed on or after August 1, 1983.

(3) With regard to premises in California which are owned by the taxpayer, other than a dwelling, the amount of the credit allowed by

this section shall be 25 percent of the cost (as defined in subdivision (f)) of the solar energy system.

A taxpayer, who claimed the solar energy tax credit on the state income tax return for the income year in which the solar energy system was installed, may claim the credit in subsequent years for additions to the system or additional systems by the amount prescribed by this paragraph.

(4) If a solar energy system serves two or more dwellings, the owner or owners of the system shall be eligible to receive the credit in proportion to the number of dwelling units served. The amount of the credit shall be determined by dividing the cost (as defined in paragraph (8)) of the solar energy system by the number of dwelling units served by the system, and applying the formula described in paragraph (2) or (6) to the per dwelling cost.

(5) Energy conservation measures applied in conjunction with solar energy systems to reduce the total cost or backup energy requirements of such systems shall be considered part of the systems, and shall be eligible for the tax credit. Qualified energy conservation measures installed within six months of the date of installation of the solar energy system are considered to be installed "in conjunction with" the solar energy system, even if the period spans two taxable years. In cases involving more than six months between the dates of installation of the energy conservation measures and the solar energy system, the taxpayer must be able to provide persuasive evidence that the energy conservation measures were in fact installed in conjunction with a solar energy system. Eligible conservation measures applied in conjunction with solar space heating shall include, but not be limited to, ceiling, wall, and floor insulation above that required by law at the time of original construction. Eligible conservation measures applied in conjunction with solar water heating shall include, but not be limited to, water heater insulation jackets, and shower and faucet flow reducing devices. Energy conservation measures which shall be eligible for the tax credit when applied in conjunction with solar energy systems shall be defined by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(6) Taxpayers who lease a solar energy system installed on premises in California shall receive a tax credit as provided in subparagraphs (A) or (B) provided that the lessee can confirm, if necessary, by a written document signed by the lessor that (i) the lessor irrevocably elects not to claim a state tax credit for the solar energy system, and (ii) if the system is installed in a locality served by a municipal solar utility, that the lessor holds a valid permit from the municipal solar utility. Leasing requirements may be established by the Energy Resources Conservation and Development Commission as part of the solar energy system eligibility criteria.

(A) Except as provided in subparagraph (B), the credit shall equal 55 percent of the cost (as defined in subdivision (f)) of the purchased portion, and 55 percent of the principal recovery portion

(as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years. That credit shall not exceed three thousand dollars ($3,000) for each system. In any one year, the tax credit shall apply only to the principal recovery portion of lease payments made during that year and to amounts expended on the purchases portion of the solar energy system (including installation charges) during that year. For any solar energy system installed on or after August 1, 1983, the percentage specified by this subparagraph shall be 50 percent.

(B) In the case of premises other than dwellings, the credit shall equal 25 percent of the cost (as defined in subdivision (f)) of the purchased portion and 25 percent of the principal recovery portion (as defined in subdivision (f)) of the lease payments for the term of the lease, not to exceed 10 years.

(7) For purposes of computing the credit provided by this section, the cost of any solar energy system eligible for the credit provided by this section shall be reduced by any grant provided by a public agency for such system.

(b) The basis of any system for which a credit is allowed shall be reduced by the amount of the credit and grant provided by a utility or public agency for such solar energy system. The basis adjustment shall be made for the income year for which the credit is allowed.

In the case of a partnership, the solar energy tax credit may be divided between the partners pursuant to a written partnership agreement.

(c) In the case where the credit allowed under this section exceeds the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) for the income year, that portion of the credit which exceeds such taxes may be carried over to the taxes imposed by this part (except the minimum franchise tax and the tax on preference income) in succeeding income years until such credit is used. The credit shall be applied first to the earliest years possible. With regard to solar energy systems installed between August 1, 1983, and December 31, 1983, no more than 50 percent of the allowable credits under this section shall be applied against the taxpayer's "net tax" for the 1983 income year. The remaining portion of the credit shall be carried over to succeeding income years until such credit is used.

(d) The Energy Resources Conservation and Development Commission shall, after one or more public hearings, establish guidelines and criteria for solar energy systems which shall be eligible for the credit provided by this section. Such guidelines and criteria may include, but shall not be limited to, minimum requirements for safety, reliability and durability of solar energy systems. The Franchise Tax Board shall prescribe such regulations as may be necessary to carry out the purposes of this section.

(e) If federal income tax credit is enacted for costs incurred by a taxpayer for the purchase or lease and installation of solar energy systems, then to the extent such credit is allowed or allowable for a

solar energy system as defined in this section, the state credit provided in paragraph (2) of subdivision (a) and subparagraph (A) of paragraph (6) shall be reduced so that the combined effective credit shall not exceed 55 percent of such costs, notwithstanding the carryover provisions of subdivision (c). For any solar energy system installed on or after August 1, 1983, the percentage specified by this subdivision shall be 50 percent.

(f) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Cost" includes equipment and installation charges, but shall exclude interest charges. In the case of a system which is leased, "cost" means the principal recovery portion of lease payments which is the cost incurred by the taxpayer in acquiring the solar energy system, but excluding interest charges and maintenance expenses.

(3) "Owner" includes duly recorded holders of legal title, lessees with at least three years remaining on their lease or easement granting use of the premises, a person purchasing premises under a contract of sale, or who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises, a person who is a member of a nonprofit corporation or association which is a duly recorded holder of legal title, or a person who is a member of a nonprofit corporation or association which is a lessee with at least three years remaining on its lease.

(4) "Premises" means the principal stationary location in California where the system is installed for direct use or for purposes of sale of energy, and includes land, easements, buildings or portions thereof, and mobilehomes.

(5) "Dwelling" means a building, or portion thereof, used for residential purposes, and includes single-family residences, mobilehomes, and the individual units of condominiums, cooperatives, apartment buildings, or other similar multiple dwellings.

(6) (A) "Solar energy system" means the use of solar devices for the individual function of:

(i) Water heating.

(ii) Space conditioning.

(iii) Production of electricity.

(iv) Process heat.

(v) Solar mechanical energy.

(vi) Wind energy for the production of electricity or mechanical work.

The term "solar energy system" shall include, but is not limited to, passive thermal systems, semipassive thermal systems, active thermal systems, photovoltaic systems and wind-driven systems.

(B) Eligible solar energy systems shall have a useful life of not less than three years.

(7) "Solar device" means the equipment associated with the

collection, conversion, transfer, distribution, storage or control of solar energy. In the case of a solar device associated with two or more solar energy systems, the credit allowed for the solar device may be taken for any one of the systems, or divided equally between them.

(8) "Passive thermal system" means a system which utilizes the structural elements of the building, and is not augmented by mechanical components, to provide for collection, storage, or distribution of solar energy for heating or cooling.

(9) "Active thermal system" means a system which utilizes solar devices thermally isolated from the living or commercial space to provide for collection, storage, or distribution of solar energy for heating or cooling.

(10) "Semipassive thermal system" means a system which utilizes the structural elements of a building and is augmented by mechanical components to provide for collection, storage, or distribution of solar energy for heating or cooling.

(11) "Municipal solar utility" means a city, county, or municipal utility district, or agency thereof, which sells or leases solar or other energy generating equipment or energy saving devices for residential, commercial, agricultural, or industrial uses, or which issues permits to companies engaged in the leasing of this equipment.

(g) In lieu of claiming the tax credit provided by this section, the taxpayer may elect to take a depreciation pursuant to Section 24349. Also, the taxpayer may take depreciation pursuant to that section for the cost of a solar energy system in excess of the amount of the tax credit claimed under this section.

(h) No tax credit may be claimed under this section for any expenditures which have been otherwise claimed as a tax credit for the current or any prior taxable year as energy conservation measures under this part.

(i) 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 this date, deletes or extends the date. However, any unused credit may be used beyond that date on the same basis and to the same extent as permitted under the law immediately prior to January 1, 1987.

SEC. 4. Section 24349 of the Revenue and Taxation Code, as added by Section 10 of Chapter 700 of the Statutes of 1982, is amended to read:

24349. (a) There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear, and tear (including a reasonable allowance for obsolescence)—

(1) Of property used in the trade or business; or

(2) Of property held for the production of income.

(b) For income years ending after December 31, 1958, the term "reasonable allowance" as used in subdivision (a) shall include (but shall not be limited to) an allowance computed in accordance with regulations prescribed by the Franchise Tax Board, under any of the

following methods:

(1) The straight line method.

(2) The declining balance method, using a rate not exceeding twice the rate which would have been used had the annual allowance been computed under the method described in paragraph (1).

(3) The sum of the years-digits method.

(4) Any other consistent method productive of an annual allowance which, when added to all allowances for the period commencing with the taxpayer's use of the property and including the income year, does not, during the first two-thirds of the useful life of the property, exceed the total of such allowances which would have been used had such allowances been computed under the method described in paragraph (2).

Nothing in this subsection shall be construed to limit or reduce an allowance otherwise allowable under subdivision (a).

(c) For property used in a trade or business, or held for production of income, there shall be allowed as a depreciation deduction a reasonable allowance for the cost of a solar energy system and allowable conservation measures over a 60-month period.

(d) 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 enacted before January 1, 1987, deletes or extends that date. If that date is not deleted or extended, then, on and after January 1, 1987, pursuant to Section 9611 of the Government Code, Section 24349 of the Revenue and Taxation Code, added by Section 10 of Chapter 700 of the Statutes of 1982, shall have the same force and effect as if this temporary provision had not been enacted.

SEC. 5. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

CHAPTER 1237

An act to add Section 1157.7 to the Evidence Code, and to add Section 1797.222 to the Health and Safety Code, relating to health services.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 1157.7 is added to the Evidence Code, to read:

1157.7. The prohibition relating to discovery or testimony provided in Section 1157 shall be applicable to proceedings and records of any committee established by a local governmental agency to monitor, evaluate, and report on the necessity, quality, and level of specialty health services, including, but not limited to,

trauma care services, provided by a general acute care hospital which has been designated or recognized by that governmental agency as qualified to render specialty health care services. The provisions of Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code shall not be applicable to the committee records and proceedings.

SEC. 2. Section 1797.222 is added to the Health and Safety Code, to read:

1797.222. A county, upon the recommendation of its local EMS agency, may adopt ordinances governing the transport of a patient who is receiving care in the field from prehospital emergency medical personnel, when the patient meets specific criteria for trauma, burn, or pediatric centers adopted by the local EMS agency.

The ordinances shall, to the extent possible, ensure that individual patients receive appropriate medical care while protecting the interests of the community at large by making maximum use of available emergency medical care resources. These ordinances shall be consistent with Sections 1797.106, 1798.100, and 1798.102, and shall not conflict with any state regulations or any guidelines adopted by the Emergency Medical Service Authority.

This section shall not be construed as prohibiting the helicopter program of the Department of the California Highway Patrol from a role in providing emergency medical services when the best medically qualified person at the scene of an accident determines it is in the best interests of any injured party.

CHAPTER 1238

An act to amend Sections 73348, 73351, 73353, 73354, 73356, 73357, 73358, and 73362 of the Government Code, relating to courts.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 73348 of the Government Code is amended to read:

73348. (a) In Contra Costa County, the annual salary of each regular official reporter shall be based on a five-step salary plan with one-year increments as follows:

Step 1. Twenty-six thousand eight hundred eight dollars ($26,808).

Step 2. Twenty-eight thousand one hundred fifty-two dollars ($28,152).

Step 3. Twenty-nine thousand five hundred fifty-six dollars ($29,556).

Step 4. Thirty-one thousand thirty-two dollars ($31,032).

Step 5. Thirty-two thousand five hundred eighty dollars ($32,580).

The step of entry to the above schedule shall be Step 1. However, the judges of the court may appoint any such court reporter to a duly allocated exempt position at a higher step if, in the opinion of the appointing judge, an individual to be appointed has such experience and qualifications to entitle that individual to such higher initial step, and if such higher initial salary has the approval of the presiding judge of the court and the board of supervisors, but in no case may the initial salary be above the third step of the salary range. The compensation of each official reporter pro tempore shall be at the rate of seventy-five dollars ($75) a day for the days he actually is on duty under order of the court which per diem rate shall apply when an official reporter is appointed pursuant to Section 869 of the Penal Code by a justice court judge acting as a magistrate.

(b) During the hours which the court is open for the transaction of the judicial business, the regular official reporter shall perform the duties required by law. When not engaged in the performance of any other duty imposed upon him by law, he shall render stenographic or clerical assistance to the judge of the court to which he is assigned as such judge may direct.

(c) The board of supervisors shall adjust the salary of regular official reporters as part of its regular review of county employee compensation. Such adjustment shall be to that salary level closest to the average percentage adjustment in basic salaries of the county classes of superior court clerk, legal clerk, legal services clerk, intermediate stenographer-clerk, and clerk (experienced level). Any such reporter salary adjustment shall be effective on the same day as the effective date of the board's action as to all of the aforesaid county classifications, but for official reporters of each municipal court district shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made. The compensation of each official reporter pro tempore shall remain at the rate of seventy-five dollars ($75) a day for the days he actually is on duty until changed by the board of supervisors at the same time and on the same basis as regular official reporters.

SEC. 2. Section 73351 of the Government Code is amended to read:

73351. There are the following classes of positions into which each of the positions of the municipal courts and marshal's office shall be assigned as prescribed in the section pertaining to each court or to the marshal's office.

(a) Deputy clerk I, which shall include all municipal courts and marshal's office employments assigned routine clerical tasks under continuous immediate supervision.

(b) Deputy clerk-data entry operator I, which shall include all municipal court employments at the entry level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(c) Deputy clerk II, which shall include all municipal courts and marshal's office employments assigned clerical tasks requiring exercise of discretion as to methods and priorities and which supervision is available on a periodic basis only.

(d) Deputy clerk-data entry operator II, which shall include all municipal court employments at the experienced working level assigned to operate data entry devices for the purpose of entering and verifying a wide variety of data from coded or uncoded source documents.

(e) Deputy clerk-criminal process, which shall include all municipal court employments assigned complex clerical work in the criminal section of a municipal court involving responsibility for the establishment, maintenance, calendaring, issuance of process and updating of criminal case records using manual and automated systems.

(f) Deputy clerk III, which shall include all municipal court employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters Positions of this class may assign and review the work of several deputy clerks I, deputy clerks II, or deputy clerks-criminal process.

(g) Process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature requiring exercise of initiative and discretion in work organization, methods and priorities and in which supervision is available only on policy matters Positions of this class may assign and review the work of several deputy clerks I or deputy clerks II.

(h) Supervising process clerk, which shall include all marshal's office employments assigned clerical duties of a complex and varied nature in which the incumbent plans, organizes and supervises the work of several deputy clerks I, deputy clerks II and process clerks.

(i) Executive secretary, which shall include one position in the Marshal's Office assigned to serve as the confidential secretary to the marshal.

(j) Deputy clerk-courtroom clerk, which shall include all municipal court employments assigned clerical duties involving responsibility for keeping the minutes of court proceedings and the processing and maintenance of a variety of documents and records.

(k) Deputy clerk-division supervisor, which shall include all municipal court employments assigned responsibility for planning, organizing and directing the clerical activities of a division or branch office in a municipal court including the supervision of clerical staff.

(*l*) Chief deputy clerk, which shall include assisting in supervision and direction of court affairs, filling in for courtroom clerks and other employees during absences, and subject to the designation of the clerk-administrator, being responsible for court operations in the absence of the clerk-administrator.

(m) Clerk-administrator of the court, which shall include any

municipal court position in a multijudge court (Schedule A in court with five through seven judges, Schedule B in court with two through four judges) charged with the overall responsibility for managing and supervising court clerical operations including courtroom duties.

(n) Deputy marshal-recruit, which shall not be a peace officer, and shall only be assigned to attend a basic academy course of study to gain P.O.S.T. approved peace officer status.

(o) Deputy marshal, which shall include all marshal's office employments assigned to discharge the peace officer responsibilities of the marshal including establishment and maintenance of law and acting as bailiff when the municipal court is in session.

(p) Deputy marshal sergeant, which shall include any position in a marshal's office responsible for assigning and reviewing the work of several deputy marshals in serving court processes and other peace officer activities.

(q) Assistant marshal, which shall include any position in the marshal's office responsible for assigning and reviewing the work of a deputy marshal sergeant and several deputy marshals in serving court processes and other peace officer activities or, who, under direction of the marshal, shall be responsible for day-to-day operation of the marshal's office.

(r) Marshal, which shall be the nonelective position responsible for the management and supervision of the duties of the office of marshal for all the judicial districts.

(s) Court commissioner, which shall include all municipal court employments who exercise the same powers and duties of judges of the court with respect to traffic and small claims matters.

SEC. 3. Section 73353 of the Government Code is amended to read:

73353. Classes of positions provided in Section 73351 are allocated to the salary schedule as follows:

(a) Deputy clerk I	Level H1 747
(b) Deputy clerk-data entry operator I	Level H1 845
(c) Deputy clerk II	Level H1 887
(d) Deputy clerk II-data entry operator II	Level H1 942
(e) Deputy clerk-criminal process	Level H1 946
(f) Deputy marshal recruit	Level H8 006
(g) Deputy clerk III	Level H2 084
(h) Process clerk	Level H2 084
(i) Supervising process clerk	Level H2 231
(j) Deputy clerk-courtroom clerk	Level H2 297
(k) Deputy clerk-division supervisor	Level H2 297
(*l*) Deputy marshal	Level H2 425
(m) Chief deputy clerk	Level H2 566
(n) Deputy marshal sergeant	Level H2 571
(o) Clerk-administrator of the court-Sch	

B	Level H2 786
(p) Assistant marshal	Level H2 834
(q) Clerk-administrator of the court-Sch. A	Level H2 896
(r) Marshal	Level H5 931
(s) Executive secretary	Level H8 265

SEC. 4. Section 73354 of the Government Code is amended to read:

73354. Certain classifications in the municipal courts and marshal's office are deemed to be equivalent in job and salary level to certain classifications in the service of Contra Costa County and whenever the salary of a classification in the service of Contra Costa County is adjusted by the board of supervisors, the salary of the comparable classification in the municipal courts or marshal's office shall be adjusted a commensurate number of levels on the salary schedule. Such adjustment shall be effective on the same day as the effective date of the action by the board of supervisors as it applies to the county classifications, but such adjustment shall be effective only until January 1 of the second year following the calendar year in which the adjustment is made.

(a) The class of deputy clerk I is equivalent in job and salary level to the class of Clerk (beginning level A2 to A6) in the service of Contra Costa County. The class of deputy clerk II is equivalent to Clerk (experienced level).

(b) The class of deputy clerk-data entry operator I is equivalent in job and salary level to the class of data entry operator I in the service of Contra Costa County. The class of deputy clerk-data entry operator II is equivalent to data entry operator II.

(c) Whenever the salary of the class of deputy clerk II is adjusted as described above, the class of deputy clerk-criminal process, deputy clerk III, deputy clerk-courtroom clerk and process clerk shall be adjusted an equivalent number of levels on the salary schedule.

(d) The class of deputy marshal-recruit is equivalent in job and salary level to the class of deputy sheriff-recruit in the service of Contra Costa County.

(e) The class of deputy marshal is equivalent in job and salary level to the class of deputy sheriff in the service of Contra Costa County. The class of deputy marshal sergeant is equivalent in job and salary level to the class of deputy sheriff sergeant in the service of Contra Costa County. The class of assistant marshal shall be allocated to a salary level which is 67 levels on the H2 salary schedule above that of lieutenant in the service of Contra Costa County. The class of marshal shall be allocated to a salary level on the H5 salary schedule which is 97 levels above that of assistant marshal.

(f) The position of municipal court reporter is equivalent in job responsibility to positions described and functioning as superior court reporters in Contra Costa County. Whenever the superior court reporters are authorized a basic salary adjustment, the salary

of municipal court reporters shall be adjusted. Such adjustment shall be effective on the same date as the superior court reporter salaries are adjusted.

(g) The class of supervising process clerk shall be allocated to a salary level which is 147 salary levels on the salary schedule above that of process clerk.

(h) The class of deputy clerk-division supervisor and the class of deputy clerk-courtroom clerk shall be allocated to a salary level which is 213 salary levels on the salary schedule above that of deputy clerk III.

(i) The class of chief deputy clerk shall be allocated to a salary level which is 269 salary levels on the salary schedule above that of deputy clerk division supervisor.

(j) The class of clerk-administrator of the court (schedule B and schedule A) shall be allocated to a salary level which is 220 and 330 salary levels, respectively, on the salary schedule above that of chief deputy clerk.

(k) The class of court commissioner shall be allocated to a five-step salary schedule, in 5 percent incremental steps with the fifth step equivalent to 85 percent of the salary of a superior court judge in the County of Contra Costa. Upon appointment, a new court commissioner shall be allocated to the first step of the schedule, except that an appointee with exceptionally high qualifications and experience may be appointed at a higher step with the board of supervisors' approval.

SEC. 5. Section 73356 of the Government Code is amended to read:

73356. Certain classifications in the municipal courts and marshal's department are excluded from the merit system.

(a) A majority of the municipal court judges in Contra Costa County shall appoint the marshal, whose position shall be exempt from the merit system. The marshal, who shall serve at the pleasure of the judges, may be removed by a majority of the municipal court judges in their discretion. The marshal shall be the appointing authority for all other employments in the marshal's office.

(b) Appointment to the classification of court commissioner shall be made in accordance with Section 73362.

SEC. 6. Section 73357 of the Government Code is amended to read:

73357. In Contra Costa County, the following positions are authorized:

(a) One marshal.

(b) Two assistant marshals.

(c) Four deputy marshal sergeants.

(d) Forty deputy marshals or deputy marshal-recruits, not to exceed a combined total of 40 positions at any one time.

(e) One executive secretary.

(f) Three supervising process clerks.

(g) Six process clerks.

(h) Twenty-six deputy clerks II or deputy clerks I, not to exceed a combined total of 26 positions at any one time.

(i) Fifty deputies, who shall be custodians at the fee allowed by law for keeping property. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for purposes of obtaining merit system status or any other benefits of this article.

SEC. 7. Section 73358 of the Government Code is amended to read:

73358. In a municipal court district having five judges, the following positions are authorized:

(a) One clerk-administrator of the court (Schedule A).

(b) One chief deputy clerk.

(c) Five deputy clerk-division supervisors.

(d) Eight deputy clerk-courtroom clerks.

(e) Eighteen deputy clerks III.

(f) Sixteen deputy clerks-criminal process.

(g) Five deputy clerks-data entry operator II or I, not to exceed a combined total of five positions at any one time.

(h) Forty deputy clerks II or deputy clerks I, not to exceed a combined total of 40 positions at any one time.

SEC. 8. Section 73362 of the Government Code is amended to read:

73362. Municipal court judicial districts in the County of Contra Costa may have no more than two court commissioners for all districts in total. Commissioners shall be appointed by a majority of the judges of the court or courts, or by the presiding judge in a two-judge court, to which the court commissioner is appointed, and shall serve the court fulltime or, if appointed to serve two or more courts, sufficient time with each to total full time. Commissioners shall serve at the pleasure of the majority of the judges in the court or courts or at the pleasure of the presiding judge in a two-judge court and may be removed by a majority of the judges in their discretion. Within the jurisdiction of the court or courts and under the direction of the judges, commissioners shall exercise all the powers and perform all of the duties authorized by law to be performed by commissioners of superior courts and such additional powers and duties as may be prescribed by law. At the direction of the judges, commissioners may have the same jurisdiction and exercise the same powers and duties as the judges of the court with respect to any infraction or small claims action. The commissioners shall possess the same qualifications the law requires of a municipal court judge and shall not engage in the private practice of law. They shall be ex officio deputy clerks.

SEC. 9. If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not

affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SEC. 10. 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 1239

An act to amend Section 19858.1 of, and to add Section 19995.4 to, the Government Code, relating to state employees, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 19858.1 of the Government Code is amended to read:

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

1 month to 3 years	5/6 days per month
37 months to 10 years	1¼ days per month
121 months to 15 years	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	7/8 days per month
37 months to 10 years	1 3/8 days per month
121 months to 15 years	1 5/8 days per month
181 months to 20 years	1 3/4 days per month
241 months and over	1 7/8 days per month

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

SEC. 1.5. Section 19858.1 of the Government Code is amended to read:

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

1 month to 3 years	5/6 days per month
37 months to 10 years	1 1/4 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	1 2/3 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, 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	7/8 days per month
37 months to 10 years	1 3/8 days per month
121 months to 15 years	1 5/8 days per month
181 months to 20 years	1 3/4 days per month
241 months and over	1 7/8 days per month

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

SEC. 2. Section 19995.4 is added to the Government Code, to read:

19995.4. (a) The department shall devise plans for, and cooperate with appointing powers in the conduct of, supervisorial employee training programs so that the quality of supervisorial services rendered by persons in those positions may be continually improved.

(b) Each supervisorial employee, upon the employee's initial appointment to a designated supervisory position, shall be provided a minimum of 80 hours of training, at least 40 hours of which shall be structured and be provided by a qualified instructor. The training shall consist of techniques of supervision and management, the role of supervision and management, planning, organizing, staffing and controlling, performance standards, performance appraisal, affirmative action, discipline, labor relations, and grievances. The additional 40 hours of training may be provided on-the-job by a qualified higher level supervisor or manager.

(c) Training shall be completed within 12 months of appointment to a supervisorial classification, except that when the appointing power provides only 40 hours of structured training, on-the-job training shall be completed within six months.

(d) This section shall apply only to supervisorial employees appointed on or after January 1, 1984.

SEC. 3. Section 1.5 of this bill incorporates amendments to Section 19858.1 of the Government Code proposed by both this bill and Senate Bill 183. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) each bill amends Section 19858.1 of the Government Code, and (3) this bill is enacted after Senate Bill

183, in which case Section 19858.1 of the Government Code, as amended by Section 1 of this bill, shall remain operative only until the operative date of Senate Bill 183, at which time Section 1.5 of this bill shall become operative.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the increase in vacation benefits provided by this act to be applicable to the 1983–84 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1240

An act to amend Section 65957 of, and to add Section 65950.1 to, the Government Code, relating to development projects.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 65950.1 is added to the Government Code, to read:

65950.1. Notwithstanding Section 65950, if there has been an extension of time pursuant to Section 21100.2 or 21151.5 of the Public Resources Code to complete and certify the environmental impact report, the lead agency shall approve or disapprove the project within 90 days after certification of the environmental impact report.

SEC. 2. Section 65957 of the Government Code is amended to read:

65957. The time limits established by Sections 65950, 65950.1, and 65952 may be extended once for a period not to exceed 90 days upon consent of the public agency and the applicant.

CHAPTER 1241

An act to repeal Sections 14311 and 14312 of the Public Resources Code, relating to the California Conservation Corps, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 14311 of the Public Resources Code is repealed.

SEC. 2. Section 14312 of the Public Resources Code is repealed.

SEC. 3. The sum of three million dollars ($3,000,000) is hereby appropriated for the support of the California Conservation Corps for the 1983–84 fiscal year, one million dollars ($1,000,000) of which is to be used for the support of the Oat Mountain Center, as follows:

(a) Notwithstanding subdivision (b) of Section 21191 of the Public Resources Code, the sum of five hundred thousand dollars ($500,000) from the California Environmental License Plate Fund.

(b) Notwithstanding Sections 26401 and 26403 of the Public Resources Code, the sum of five hundred thousand dollars ($500,000) from the Resources Account in the Energy and Resources Fund.

(c) The sum of two million dollars ($2,000,000) from the Energy Resources Programs Account in the General Fund.

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 for the Oat Mountain Center of the California Conservation Corps to provide uninterrupted service to the commmunity, it is necessary that this act take effect immediately.

CHAPTER 1242

An act to amend Sections 15432, 15436, 15441, 15453.5, and 15455 of, and to add Section 15462 to, the Government Code, and to amend Section 436.2 of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 15432 of the Government Code is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not

require availability or continuous skilled nursing care.

(5) A special health care facility is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A "community clinic" is a clinic 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 community 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 income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or

acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 1.3. Section 15432 of the Government Code, as amended by Assembly Bill 1181 of the 1983–84 Regular Session of the Legislature, is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which

provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical. nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A "community clinic" which is a clinic 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 community 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 income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic; provided, that the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under

that section).

"Health facility" shall include a clinic which is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 1.7. Section 15432 of the Government Code, as amended by Assembly Bill 2025 of the 1983–84 Regular Session of the Legislature, is amended to read:

15432. As used in this part, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent:

(a) "Act" means this California Health Facilities Authority Act.

(b) "Authority" means the California Health Facilities Authority created by this part or any board, body, commission, department, or officer succeeding to the principal functions thereof or to which the powers conferred upon the authority by this part shall be given by law.

(c) "Cost," as applied to a project or portion thereof financed under the provisions of this part, means and includes all or any part of the cost of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or

structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period not to exceed one year following completion of such construction as determined by the authority, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, the cost of engineering, reasonable financial and legal services, plans, specifications, studies, surveys, estimates, administrative expenses and other expenses necessary or incident to determining the feasibility of constructing any project or incident to the construction or acquisition or financing thereof.

(d) "Health facility" means any facility, place, or building which is organized, maintained, and operated for the diagnosis, care, prevention, and treatment of human illness, physical or mental, including convalescence and rehabilitation and including care during and after pregnancy, or for any one or more of these purposes, for one or more persons, to which such persons are admitted for a 24-hour stay or longer, except in the cases of county outpatient facilities and community clinics, as defined in paragraph (6), and includes the following types:

(1) A general acute care hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care, including the following basic services: medical, nursing, surgical, anesthesia, laboratory, radiology, pharmacy, and dietary services.

(2) An acute psychiatric hospital which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical staff which provides 24-hour inpatient care for mentally disordered, incompetent, or other patients referred to in Division 5 (commencing with Section 5000) or Division 6 (commencing with Section 6000) of the Welfare and Institutions Code, including the following basic services: medical, nursing, rehabilitative, pharmacy, and dietary services.

(3) A skilled nursing facility which is a health facility which provides the following basic services: skilled nursing care and supportive care to patients whose primary need is for availability or skilled nursing care on an extended basis.

(4) An intermediate care facility which is a health facility which provides the following basic services: inpatient care to ambulatory or semiambulatory patients who have recurring need for skilled nursing supervision and need supportive care, but who do not require availability or continuous skilled nursing care.

(5) A special health care facility which is a health facility having a duly constituted governing body with overall administrative and professional responsibility and an organized medical or dental staff which provides inpatient or outpatient, acute or nonacute care, including, but not limited to, medical, nursing, rehabilitation, dental, or maternity.

(6) A "community clinic" which is a clinic 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 community 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 income taxation under paragraph (3) of subsection (c) of Section 501 of the Internal Revenue Code of 1954 as amended, or a statutory successor thereof, shall operate a community clinic. However, the licensee of any community clinic so licensed on September 26, 1978, shall not be required to obtain tax-exempt status under either federal or state law. No natural person or persons shall operate a community clinic.

(7) An "adult day health center" is a facility as defined under subdivision (b) of Section 1570.7 of the Health and Safety Code, which provides adult day health care, as defined under subdivision (a) of Section 1570.7 of the Health and Safety Code.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

(9) A multilevel facility is an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this paragraph, means a person 62 years of age or older.

"Health facility" shall include a clinic which is described in subdivision (*l*) of Section 1206 of the Health and Safety Code.

"Health facility" includes the following facilities, if operated in conjunction with one or more of the above types of facilities: a laboratory, laundry, nurses, or interns, residence, housing for staff or employees and their families, patients or relatives of patients, physicians' facility, administration building, research facility, maintenance, storage, or utility facility and all structures or facilities related to any of the foregoing or required or useful for the operation of a health facility, and the necessary and usual attendant and related facilities and equipment and including parking and supportive service facilities or structures required or useful for the orderly conduct of such health facility.

"Health facility" does not include any institution, place, or building used or to be used primarily for sectarian instruction or study or as a place for devotional activities or religious worship.

(e) "Participating health institution" means a city, city and county, county, a district hospital, or a private nonprofit corporation or association authorized by the laws of this state to provide or operate a health facility and which, pursuant to the provisions of this part, undertakes the financing or refinancing of the construction or

acquisition of a project as provided in this part.

(f) "Project" means construction, expansion, remodeling, renovation, furnishing, or equipping of a health facility or acquisition of a health facility to be financed or refinanced with funds provided in whole or in part pursuant to this part. "Project" may include any combination of one or more of the foregoing undertaken jointly by any participating health institution with one or more other participating health institutions.

SEC. 2. Section 15436 of the Government Code is amended to read:

15436. Five members of the authority shall constitute a quorum. The affirmative vote of a majority of a quorum shall be necessary for any action taken by the authority. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of Article 11 (commencing with Section 11120) of Chapter 1. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper.

SEC. 3. Section 15441 of the Government Code is amended to read:

15441. (a) The authority is authorized, from time to time, to issue its negotiable revenue bonds in order to provide funds for achieving any of its purposes under this part.

(b) Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be payable from any revenues or moneys of the authority available therefor and not otherwise pledged, subject only to any agreements with the holders of particular bonds or notes pledging any particular revenues or moneys. Notwithstanding that such revenue bonds may be payable from a special fund, they shall be and be deemed to be for all purposes negotiable instruments, subject only to the provisions of such bonds for registration.

(c) The authority's revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding 40 years from their respective dates, bear interest at such rate or rates, be payable at such time or times, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement, or resolution relating to such revenue bonds may provide. The authority's revenue bonds or notes may be sold by the Treasurer at public or private sale, after giving due consideration to the recommendation of the participating

health institution, for such price or prices and upon such terms and conditions as the authority shall determine. The Treasurer may sell any such revenue bonds at a price below the par value thereof; provided, however, that the discount on any bonds so sold shall not exceed 6 percent of the par value thereof. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for such definitive bonds.

(d) Any resolution or resolutions authorizing the issuance of any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to pledging all or any part of the revenues of a project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation or association or other body, public or private, to secure the payment of the bonds or of any particular issue of bonds.

(e) Neither the members of the authority nor any person executing the revenue bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(f) The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

SEC. 4. Section 15453.5 of the Government Code is amended to read:

15453.5. Notwithstanding Section 15453, the total amount of bonds which may be outstanding at any one time is hereby increased by an amount not exceeding seven hundred sixty-seven million dollars ($767,000,000). Bonds for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon have been deposited in trust shall not be deemed outstanding for purposes of this section.

SEC. 5. Section 15455 of the Government Code is amended to read:

15455. (a) This part shall be deemed to provide a complete, additional, and alternative method for doing the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, that the issuance of bonds and refunding bonds under the provisions of this chapter need not comply with the requirements of any other law applicable to the issuance of bonds, including without limitation the provisions of Division 13 (commencing with Section 21000) of the Public Resources Code.

(b) Except as provided in subdivision (a), the financing of a project pursuant to this part shall not exempt a project from any requirement of law which otherwise would be applicable to the project.

SEC. 6. Section 15462 is added to the Government Code, to read:

15462. Exclusively for the purpose of securing the financing of projects through the issuance of revenue bonds through the authority and notwithstanding any other provision of law, any city, city and county, county, or local hospital district may borrow money from the authority at such interest rate, with such maturity dates, and under such terms as may be specified in a loan or other agreement between the authority and the city, city and county, county, or local hospital district. The borrowing of money from the authority pursuant to this section need not comply with the requirements of any other law applicable to borrowing by a city, county, city and county, or local hospital district.

SEC. 7. Section 436.2 of the Health and Safety Code is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any such buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of such construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of such construction or acquisition.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Article XIII, Section 21.5 of the California

Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center. Except for facilities for the developmentally disabled, "health facility" does not include any institution furnishing primarily domiciliary care.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the definition set forth in this subdivision.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or 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 its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, local hospital district, or the California Health Facilities Authority.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

(s) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, which provides adult day health care, as defined under subdivision (a) of Section 1570.7.

SEC. 7.5. Section 436.2 of the Health and Safety Code, as amended by Assembly Bill No. 2025 of the 1983–84 Regular Session of the Legislature, is amended to read:

436.2. Unless the context otherwise requires, the definitions in this section govern the construction of this chapter and of Section 32127.2.

(a) "Bondholder" means the legal owner of a bond or other evidence of indebtedness issued by a political subdivision or a nonprofit corporation.

(b) "Borrower" means a political subdivision or nonprofit corporation which has secured or intends to secure a loan for the construction of a health facility.

(c) "Construction, improvement, or expansion" or "construction, improvement, and expansion" includes construction of new buildings, expansion, modernization, renovation, remodeling and alteration of existing buildings, acquisition of existing buildings or health facilities, and initial or additional equipping of any such buildings.

In connection therewith, "construction, improvement, or expansion" or "construction, improvement, and expansion" includes the cost of construction or acquisition of all structures, including parking facilities, real or personal property, rights, rights-of-way, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any land to which such buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest (prior to, during and for a period after completion of such construction), provisions for working capital, reserves for principal and interest and for extensions, enlargements, additions, replacements, renovations and improvements, cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing or incident to the construction; or the financing of such construction or acquisition.

(d) "Council" means the Advisory Health Council.

(e) "Debenture" means any form of written evidence of indebtedness issued by the State Treasurer pursuant to this chapter, as authorized by Section 4 of Article XVI of the California

Constitution.

(f) "Fund" means the Health Facility Construction Loan Insurance Fund.

(g) "Health facility" means any facility providing or designed to provide services for the acute, convalescent, and chronically ill and impaired, including but not limited to public health centers, community mental health centers, facilities for the developmentally disabled, nonprofit community care facilities that provide care, habilitation, rehabilitation or treatment to developmentally disabled persons, and general tuberculosis, mental, and other types of hospitals and related facilities, such as laboratories, outpatient departments, extended care, nurses' home and training facilities, offices and central service facilities operated in connection with hospitals, diagnostic or treatment centers, extended care facilities, nursing homes, and rehabilitation facilities. "Health facility" also means an adult day health center and a multilevel facility. Except for facilities for the developmentally disabled or a multilevel facility, "health facility" does not include any institution furnishing primarily domiciliary care.

Unless the context dictates otherwise, "health facility" includes a political subdivision of the state or nonprofit corporation which operates a facility included within the definition set forth in this subdivision.

(h) "Office" means the Office of Statewide Health Planning and Development.

(i) "Lender" means the provider of a loan and its successors and assigns.

(j) "Loan" means money or credit advanced for the costs of construction or expansion of the health facility, and includes both initial loans and loans secured upon refinancing and may include both interim, or short-term loans, and long-term loans. A duly authorized bond or bond issue may constitute a "loan."

(k) "Maturity date" means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for by the terms of the loan.

(*l*) "Mortgage" means a first mortgage on real estate. "Mortgage" includes a first deed of trust.

(m) "Mortgagee" includes a lender whose loan is secured by a mortgage. "Mortgagee" includes a beneficiary of a deed of trust.

(n) "Mortgagor" includes a borrower, a loan to whom is secured by a mortgage, and the trustor of a deed of trust.

(o) "Nonprofit corporation" means any corporation formed under or 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 its equivalent under the laws of the state of incorporation, organized for the purpose of owning and operating a health facility.

(p) "Political subdivision" means any city, county, city and county, joint powers entity, local hospital district, or the California

Health Facilities Authority.

(q) "Project property" means the real property upon which the health facility is, or is to be, constructed, improved, or expanded, and also means the health facility and the initial equipment in such health facility.

(r) "Public health facility" means any health facility which is or will be constructed for and operated and maintained by any city, county, city and county, or local hospital district.

(s) "Adult day health center" means a facility defined under subdivision (b) of Section 1570.7, which provides adult day health care, as defined under subdivision (a) of Section 1570.7.

(t) "Multilevel facility" means an institutional arrangement where a residential facility for the elderly is operated as a part of, or in conjunction with, an intermediate care facility, a skilled nursing facility, or a general acute care hospital. "Elderly," for the purposes of this subdivision, means a person 62 years of age or older.

SEC. 8. (a) Section 1.3 of this bill incorporates amendments to Section 15432 of the Government Code proposed by both this bill and AB 1181. It shall only become operative if (1) both bills are enacted and become effective January 1, 1984, (2) each bill amends Section 15432 of the Government Code, (3) AB 2025 is not enacted or as enacted does not amend that section, and (4) this bill is enacted after AB 1181, in which case Sections 1 and 1.7 of this bill shall not become operative.

(b) Section 1.7 of this bill incorporates amendments to Section 15432 of the Government Code proposed by both this bill, AB 1181, and AB 2025. It shall only become operative if (1) all three bills are enacted and become effective on or before January 1, 1984, (2) all three bills amend Section 15432 of the Government Code, and (3) this bill is enacted after AB 1181 and AB 2025, in which case Section 15432 of the Government Code, as amended by AB 2025, shall remain operative only until the operative date of this bill and AB 1181 at which time Section 1.7 of this bill shall become operative, and Sections 1 and 1.3 of this bill shall not become operative.

SEC. 9. Section 7.5 of this bill incorporates amendments to Section 436.2 of the Health and Safety Code proposed by both this bill and AB 2025. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, (2) each bill amends Section 436.2 of the Health and Safety Code, and (3) this bill is enacted after AB 2025, in which case Section 436.2 of the Health and Safety Code, as amended by AB 2025, shall remain operative only until the operative date of this bill, at which time Section 7.5 of this bill shall become operative, and Section 7 of this bill shall not become operative.

CHAPTER 1243

An act to add Section 12419.8 to the Government Code, relating to postsecondary education.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 12419.8 is added to the Government Code, to read:

12419.8. (a) For the purposes of Section 12419.5, an amount due a state agency from a person or entity shall include any amount due an educational institution authorized pursuant to subdivision (a) of Section 94310 of the Education Code from a person for repayment of federally subsidized student loans. The Controller may establish procedures to minimize administrative costs of collecting obligations pursuant to this section.

(b) If the Controller, in his or her discretion, offsets an amount due an educational institution from a person pursuant to Section 12419.5, the Controller shall remit the amount offset to the educational institution.

(c) Offset pursuant to Section 12419.5 and this section shall be limited to amounts due a person on a claim for a personal income tax refund. Whenever the amount available is insufficient to offset all amounts due state agencies, the amount available shall be applied in such manner as the Controller, in his or her discretion, shall determine.

(d) The Controller shall deduct and retain from any amount offset pursuant to this section an amount sufficient to reimburse the Controller and the Franchise Tax Board for the administrative costs of processing the request for an offset.

CHAPTER 1244

An act to amend Sections 11580.06, 11580.2, and 11580.9 of the Insurance Code, and to amend Section 16451 of the Vehicle Code, relating to insurance.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. 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 neither more than nor less than 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. 2. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within such limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation, renewal, or replacement

of the policy by the named insured, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom

coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but the term "insured motor vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section

and subject to the terms and conditions of such coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a) (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance. This subdivision shall become operative on January 1, 1971.

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be

conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section

2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person legally liable for such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction and notice of such suit has been given the insurer, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in the event the accident occurs in any other state or foreign

jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the insured within 10 days of request and the medical examination shall be arranged by the insurer no sooner than 10 days after request, unless the insured agrees to an earlier examination date, not later than 20 days after the request. If the insured fails to comply with the requirements of this subdivision,

the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

SEC. 2.5. Section 11580.2 of the Insurance Code is amended to read:

11580.2. (a) (1) No policy of bodily injury liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except for policies which provide insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless the policy contains, or has added to it by endorsement, a provision with coverage limits at least equal to the limits specified in subdivision (m) and in no case less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code insuring the insured, the insured's heirs or legal representative for all sums within such limits which he, she, or they, as the case may be, shall be legally entitled to recover as damages for bodily injury or wrongful death from the owner or operator of an uninsured motor vehicle. The insurer and any named insured, prior to or subsequent to the issuance or renewal of a policy, may, by agreement in writing, in the form specified in paragraph (2), delete the provision covering damage caused by an uninsured motor vehicle (1) completely, or (2) delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force, and shall continue to be so binding with respect to any continuation or renewal of the policy or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer, or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage with respect to the use of any motor vehicle is limited to the contingent liability arising out of the use of nonowned motor vehicles or if the automobile liability coverage is provided only on an excess or umbrella basis. Nothing in this section shall be construed to require that uninsured motorist coverage shall be offered or provided in any homeowner policy, personal and residents' liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any other policy or endorsement where automobile liability coverage is offered as

incidental to some other basic coverage, notwithstanding that the policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(2) The agreement specified in paragraph (1) shall be in the following form:

"The California Insurance Code requires an insurer to provide uninsured motorists coverage in each bodily injury liability insurance policy it issues covering liability arising out of the ownership, maintenance, or use of a motor vehicle. Such section also permits the insurer and the applicant to delete such coverage completely or to delete such coverage when a motor vehicle is operated by a natural person or persons designated by name, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, which such person or persons are legally entitled to recover as damages for bodily injury, including any resulting sickness, disease, or death, to him from the owner or operator of an uninsured motor vehicle not owned or operated by the insured."

The agreement may contain additional statements not in derogation of or in conflict with the foregoing. The execution of the agreement shall relieve the insurer of liability under this section while the agreement remains in effect.

(b) As used in (a) above, "bodily injury" includes sickness or disease, including death, resulting therefrom; the term "named insured" means only the individual or organization named in the declarations of the policy of motor vehicle bodily injury liability insurance referred to in (a) above; as used in (a) above the term "insured" means the named insured and the spouse of the named insured and, while residents of the same household, relatives of either while occupants of a motor vehicle or otherwise, heirs and any other person while in or upon or entering into or alighting from an insured motor vehicle and any person with respect to damages he or she is entitled to recover for care or loss of services because of bodily injury to which the policy provisions or endorsement apply; the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist endorsement or coverage is a part, a temporary substitute automobile for which liability coverage is provided in the policy or a newly acquired automobile for which liability coverage is provided in the policy if the motor vehicle is used by the named insured or with his or her permission or consent, express or implied, and any other automobile not owned by the named insured or any resident of the same household, or by a natural person or persons for whom coverage has been deleted in accordance with subdivision (a) while being operated by the named insured or his or her spouse if a resident of the same household, but the term "insured motor

vehicle" shall not include any automobile while used as a public or livery conveyance. As used in this section, the term "uninsured motor vehicle" means a motor vehicle with respect to the ownership, maintenance or use of which there is no bodily injury liability insurance or bond applicable at the time of the accident, or there is such applicable insurance or bond but the company writing the same denies coverage thereunder or refuses to admit coverage thereunder except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no bodily injury liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof, or the owner or operator thereof be unknown, provided that, with respect to an "uninsured motor vehicle" whose owner or operator is unknown:

(1) The bodily injury has arisen out of physical contact of the automobile with the insured or with an automobile which the insured is occupying.

(2) The insured or someone on his or her behalf shall have reported the accident within 24 hours to the police department of the city where the accident occurred or, if the accident occurred in unincorporated territory then either the sheriff of the county where the accident occurred or the local headquarters of the California Highway Patrol, and have filed with the insurer within 30 days thereafter a statement under oath that the insured or his or her legal representative has or the insured's heirs have a cause of action arising out of the accident for damages against a person or persons whose identity is unascertainable and set forth facts in support thereof. As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned or operated by the named insured or any resident of the same household or self-insured within the meaning of the Safety Responsibility Law of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any such government or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence or premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads.

As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making the payment, shall to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent

insurer through any settlement or judgment of the person against the insolvent insurer.

(c) The insurance coverage provided for in this section does not apply either as primary or as excess coverage to:

(1) To property damage sustained by the insured.

(2) To bodily injury of the insured while in or upon or while entering into or alighting from a motor vehicle other than the described motor vehicle if the owner thereof has insurance similar to that provided in this section.

(3) To bodily injury of the insured with respect to which the insured or his or her representative shall, without the written consent of the insurer, make any settlement with or prosecute to judgment any action against any person who may be legally liable therefor.

(4) In any instance where it would inure directly or indirectly to the benefit of any workers' compensation carrier or to any person qualified as a self-insurer under any workers' compensation law, or directly to the benefit of the United States, or any state or any political subdivision thereof.

(5) To establish proof of financial responsibility as provided in subdivisions (a), (b), and (c) of Section 16054 of the Vehicle Code.

(6) To bodily injury of the insured while occupying a motor vehicle owned by an insured, unless the occupied vehicle is an insured motor vehicle.

(7) To bodily injury of the insured when struck by a vehicle owned by an insured.

(d) Subject to paragraph (2) of subdivision (c), the policy or endorsement may provide that if the insured has insurance available to the insured under more than one uninsured motorist coverage provision, any damages shall not be deemed to exceed the higher of the applicable limits of the respective coverages, and such damages shall be prorated between the applicable coverages as the limits of each coverage bear to the total of such limits.

(e) The policy or endorsement added thereto may provide that if the insured has valid and collectible automobile medical payment insurance available to him or her, the damages which the insured shall be entitled to recover from the owner or operator of an uninsured motor vehicle shall be reduced for purposes of uninsured motorist coverage by the amounts paid or due to be paid under the automobile medical payment insurance. This subdivision shall become operative on January 1, 1971

(f) The policy or an endorsement added thereto shall provide that the determination as to whether the insured shall be legally entitled to recover damages, and if so entitled, the amount thereof, shall be made by agreement between the insured and the insurer or, in the event of disagreement, by arbitration. The arbitration shall be conducted by a single neutral arbitrator. An award or a judgment confirming an award shall not be conclusive on any party in any action or proceeding between (i) the insured, his or her insurer, his

or her legal representative, or his or her heirs and (ii) the uninsured motorist to recover damages arising out of the accident upon which the award is based. If the insured has or may have rights to benefits, other than nonoccupational disability benefits, under any workers' compensation law, the arbitrator shall not proceed with the arbitration until the insured's physical condition is stationary and ratable. In those cases in which the insured claims a permanent disability, the claims shall, unless good cause be shown, be adjudicated by award or settled by compromise and release before the arbitration may proceed. Any demand or petition for arbitration shall contain a declaration, under penalty of perjury, stating whether (i) the insured has a workers' compensation claim; (ii) the claim has proceeded to findings and award or settlement on all issues reasonably contemplated to be determined in that claim; and (iii) if not, what reasons amounting to good cause are grounds for the arbitration to proceed immediately. The arbitration shall be deemed to be a proceeding and the hearing before the arbitrator shall be deemed to be the trial of an issue therein for purposes of issuance of a subpoena by an attorney of a party to the arbitration under Section 1985 of the Code of Civil Procedure. The provisions of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall be applicable to these determinations, and all rights, remedies, obligations, liabilities and procedures set forth in Article 3 shall be available to both the insured and the insurer at any time after the accident, both before and after the commencement of arbitration, if any, with the following limitations:

(1) Whenever in Article 3, reference is made to the court in which the action is pending, or provision is made for application to the court or obtaining leave of court or approval by the court, the court which shall have jurisdiction for the purposes of this section shall be the superior court of the State of California, in and for any county which is a proper county for the filing of a suit for bodily injury arising out of the accident, against the uninsured motorist, or any county specified in the policy or an endorsement added thereto as a proper county for arbitration or action thereon.

(2) Any such proper court to which application is first made by either the insured or the insurer under the provisions of Article 3 for any discovery or other relief or remedy, shall thereafter be the only court to which either of the parties shall make any applications under Article 3 with respect to the same accident, subject, however, to the right of the court to grant a change of venue after a hearing upon notice, upon any of the grounds upon which change of venue might be granted in an action filed in the superior court.

(3) A deposition pursuant to the provisions of Section 2016 of the Code of Civil Procedure may be taken without leave of court, except that leave of court, granted with or without notice and for good cause shown, must be obtained if the notice of the taking of the deposition is served by either party within 20 days after the accident.

(4) The provisions of paragraph (4) of subdivision (a) of Section 2019 of the Code of Civil Procedure shall not be applicable to discovery under this section.

(5) For the purposes of discovery under this section, the insured and the insurer shall each be deemed to be "a party to the record of any civil action or proceedings," where that phrase is used in paragraph (2) of subdivision (b) of Section 2019 of the Code of Civil Procedure.

(6) Interrogatories under the provisions of Section 2030 of the Code of Civil Procedure and requests for admission under Section 2033 of the Code of Civil Procedure may be served by either the insured or the insurer upon the other at any time more than 20 days after the accident without leave of court.

(7) Nothing in this section shall be construed to limit the rights of any party to discovery in any action pending or which may hereafter be pending in any court.

(g) The insurer paying a claim under an uninsured motorist endorsement or coverage shall be entitled to be subrogated to the rights of the insured to whom such claim was paid against any person legally liable for such injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made hereunder.

(h) An insured entitled to recovery under the uninsured motorist endorsement or coverage shall be reimbursed within the conditions stated herein without being required to sign any release or waiver of rights to which he or she may be entitled under any other insurance coverage applicable; nor shall payment under this section to such insured be delayed or made contingent upon the decisions as to liability or distribution of loss costs under other bodily injury liability insurance or any bond applicable to the accident. Any loss payable under the terms of the uninsured motorist endorsement or coverage to or for any person may be reduced:

(1) By the amount paid and the present value of all amounts payable to him or her, his or her executor, administrator, heirs, or legal representative under any workers' compensation law, exclusive of nonoccupational disability benefits.

(2) By the amount the insured is entitled to recover from any other person insured under the underlying liability insurance policy of which the uninsured motorist endorsement or coverage is a part.

(i) No cause of action shall accrue to the insured under any policy or endorsement provision issued pursuant to this section unless within one year from the date of the accident:

(1) Suit for bodily injury has been filed against the uninsured motorist, in a court of competent jurisdiction and notice of such suit has been given the insurer, or

(2) Agreement as to the amount due under the policy has been concluded, or

(3) The insured has formally instituted arbitration proceedings.

(j) Notwithstanding the provisions of subdivisions (b) and (i), in

the event the accident occurs in any other state or foreign jurisdiction to which coverage is extended under the policy and the insurer of the tortfeasor becomes insolvent, any action authorized pursuant to the provisions of this section may be maintained within three months of the insolvency of the tortfeasor's insurer, but in no event later than the pertinent period of limitation of the jurisdiction in which the accident occurred.

(k) Notwithstanding the provisions of subdivision (i), any insurer whose insured has made a claim under his or her uninsured motorist coverage, and such claim is pending, shall, at least 30 days before the expiration of the applicable statute of limitation, notify its insured in writing of the statute of limitation applicable to the injury or death. Failure of the insurer to provide the written notice shall operate to toll any applicable statute of limitation or other time limitation for a period of 30 days from the date the written notice is actually given. The notice shall not be required if the insurer has received notice that the insured is represented by an attorney.

(*l*) As used in subdivision (b), "public or livery conveyance," or terms of similar import, shall not include the operation or use of a motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars ($30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars ($60,000) because of bodily injury to or death of two or more persons in any one accident.

(n) If an insured has failed to provide an insurer with wage loss information or medical treatment record releases within 15 days of the insurer's request or has failed to submit to a medical examination arranged by the insurer within 20 days of the insurer's request, the insurer may, at any time prior to 30 days before the actual arbitration proceedings commence, request, and the insured shall furnish, wage loss information or medical treatment record releases, and the insurer may require the insured, except during periods of hospitalization, to make himself or herself available for a medical examination. The wage loss information or medical treatment record releases shall be submitted by the insured within 10 days of request and the medical examination shall be arranged by the insurer no sooner than 10 days after request, unless the insured agrees to an earlier examination date, and not later than 20 days after the request.

If the insured fails to comply with the requirements of this subdivision, the actual arbitration proceedings shall be stayed for at least 30 days following compliance by the insured. The proceedings shall be scheduled as soon as practicable following expiration of the 30-day period.

SEC. 3. Section 11580.9 of the Insurance Code is amended to read:

11580.9. (a) Where two or more policies affording valid and collectible automobile liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, and one policy affords coverage to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road-testing, parking, or storing motor vehicles, then both of the following shall be conclusively presumed:

(1) If, at the time of loss, the motor vehicle is being operated by any person engaged in any of these businesses, or by his or her employee or agent, the insurance afforded by the policy issued to the person engaged in the business shall be primary, and the insurance afforded by any other policy shall be excess.

(2) If, at the time of loss, the motor vehicle is being operated by any person other than as described in paragraph (1), the insurance afforded by the policy issued to any person engaged in any of these businesses shall be excess over all other insurance available to the operator as a named insured or otherwise.

(b) Where two or more policies apply to the same loss, and one policy affords coverage to a named insured engaged in the business of renting or leasing motor vehicles without operators, it shall be conclusively presumed that the insurance afforded by such policy to a person other than the named insured or his or her agent or employee, shall be excess over and not concurrent with, any other valid and collectible insurance applicable to the same loss covering the person as a named insured or as an additional insured under a policy with limits at least equal to the financial responsibility requirements specified in Section 16056 of the Vehicle Code. The presumption provided by this subdivision shall apply only if, at the time of the loss, the involved motor vehicle either:

(1) Qualifies as a "commercial vehicle" as that term is used in Section 260 of the Vehicle Code.

(2) Has been leased for a term of six months or longer.

(c) Where two or more policies are applicable to the same loss arising out of the loading or unloading of a motor vehicle, and one or more of the policies is issued to the owner, tenant, or lessee of the premises on which the loading or unloading occurs, it shall be conclusively presumed that the insurance afforded by the policy covering the motor vehicle shall not be primary, notwithstanding anything to the contrary in any endorsement required by law to be placed on the policy, but shall be excess over all other valid and collectible insurance applicable to the same loss with limits up to the financial responsibility requirements specified in Section 16056 of the

Vehicle Code; and, in such event, the two or more policies shall not be construed as providing concurrent coverage, and only the insurance afforded by the policy or policies covering the premises on which the loading or unloading occurs shall be primary and the policy or policies shall cover as an additional insured with respect to the loading or unloading operations all employees of the owner, tenant, or lessee while acting in the course and scope of their employment.

(d) Except as provided in subdivisions (a), (b), and (c), where two or more policies affording valid and collectible liability insurance apply to the same motor vehicle in an occurrence out of which a liability loss shall arise, it shall be conclusively presumed that the insurance afforded by that policy in which the motor vehicle is described or rated as an owned automobile shall be primary and the insurance afforded by any other policy or policies shall be excess.

(e) Any insurance policy which, under the terms of subdivisions (a) to (d), inclusive, applies as excess coverage may provide with respect to any primary policy or to any loss to which primary insurance is not valid and collectible in whole or in part, that the excess policy shall apply only to the extent necessary to provide the insured with the coverage limits specified in Section 16056 of the Vehicle Code.

(f) The presumptions stated in subdivisions (a) to (d), inclusive, may be modified or amended only by written agreement signed by all insurers who have issued a policy or policies applicable to a loss described in these subdivisions and all named insureds under these policies.

(g) For purposes of this article, a certificate of self-insurance issued pursuant to Section 16053 of the Vehicle Code or a report filed pursuant to Section 16051 of the Vehicle Code shall be considered a policy of automobile liability insurance.

SEC. 4. Section 16451 of the Vehicle Code is amended to read:

16451. An owner's policy of motor vehicle liability insurance shall insure the named insured and any other person using any motor vehicle registered to the named insured with the express or implied permission of the named insured, against loss from the liability imposed by law for damages arising out of ownership, maintenance, or use of the motor vehicle within the continental limits of the United States to the extent and aggregate amount, exclusive of interest and costs, with respect to each motor vehicle, of fifteen thousand dollars ($15,000) for bodily injury to or death of each person as a result of any one accident and, subject to the limit as to one person, the amount of thirty thousand dollars ($30,000) for bodily injury to or death of all persons as a result of any one accident and the amount of five thousand dollars ($5,000) for damage to property of others as a result of any one accident.

SEC. 5. Section 2.5 of this bill incorporates amendments to Section 11580.2 of the Insurance Code proposed by both this bill and SB 570. It shall only become operative if (1) both bills are enacted

and become effective on January 1 1984, (2) each bill amends Section 11580.2 of the Insurance Code, and (3) this bill is enacted after SB 570, in which case Section 2 of this bill shall not become operative.

CHAPTER 1245

An act to amend Sections 12024.2, 12024.3, 12240, 12241, 12242, and 12243 of the Business and Professions Code, relating to weights and measures.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 12024.2 of the Business and Professions Code is amended to read:

12024.2. (a) It is unlawful for any person to compute, at the time of sale of a commodity, a value which is not a true extension of a price per unit which at that time is advertised, posted, or quoted.

A violation of this subdivision is a misdemeanor, punishable by a fine of not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if the violation is willful or grossly negligent, or when the difference between the value actually computed and the total true value of the commodity offered for sale (pursuant to the advertised, posted, or quoted price per unit) is more than one dollar ($1) greater than the total true value of the commodity offered for sale.

(b) A violation of this section is an infraction when the difference between the value actually computed and the total true value of the commodity offered for sale (pursuant to the advertised, posted, or quoted price per unit) is not more than one dollar ($1) greater than the total true value of the commodity offered for sale. The violation is punishable by a fine of not more than one hundred dollars ($100).

SEC. 2. Section 12024.3 of the Business and Professions Code is amended to read:

12024.3. (a) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is a misdemeanor punishable by a fine of not less than fifty dollars ($50) nor more than one thousand dollars ($1,000), by imprisonment in the county jail for a period not exceeding one year, or by both, if any of the following occurs:

(1) The violation is willful.

(2) The total monetary value of the shortage, calculated on the basis of the average error of an individual lot, exceeds two dollars ($2), as determined pursuant to regulations adopted pursuant to

Section 12211.

(3) The total monetary value of shortages, calculated on the basis of the average error of each individual lot, as determined from a sample of packages selected pursuant to regulations adopted pursuant to Section 12211, within all lots found to be in violation of Section 12024 at a single location, exceeds ten dollars ($10).

(b) For commodities prepackaged and sold or offered for sale on the same premises, a violation of Section 12024 is an infraction, punishable by a fine of not more than one hundred dollars ($100), if the violation is of less monetary value than that specified in subdivision (a) and it is not willful.

SEC. 3. Section 12240 of the Business and Professions Code is amended to read:

12240. The board of supervisors may, by ordinance, charge an annual device registration fee to recover the costs of inspecting or testing weighing and measuring devices required of the county sealer pursuant to Section 12210. The fee shall not exceed the county's total cost of actually inspecting or testing the devices, as required by law, or the amount prescribed in the table in subdivision (b) of Section 12241, except that the county may collect the fees biennially in which case they shall not exceed twice the amount of an annual fee. The ordinance shall be adopted pursuant to Article 7 (commencing with Section 25120) of Chapter 1 of Part 2 of Division 2 of Title 2 of the Government Code.

Retail gasoline pump meters, for which the above fees are assessed, shall be inspected as frequently as required by regulations, but not less than once every two years.

SEC. 4. Section 12241 of the Business and Professions Code is amended to read:

12241. (a) The Director of Food and Agriculture shall, after consultation with representatives of industry groups and local officers, develop a schedule which classifies the types of weighing and measuring devices shown in the table in subdivision (b). It is the intent of the Legislature that the weighing and measuring devices include small retail scales, taxi meters, retail gasoline pump meters and other devices of similar size or difficulty in testing.

(b) Table of Maximum Annual Charges

Number of Devices	1 to 3	4 to 9	Over 9
Charge Per Location	$20	$40	$60

(c) Subdivisions (a) and (b) do not apply to any retail scale used primarily for the purpose of weighing feed and seed.

SEC. 5. Section 12242 of the Business and Professions Code is amended to read:

12242. The revenue from any fee charged pursuant to Section 12240 shall be deposited in the general fund of the county and used solely for the activities required by Section 12210.

SEC. 6. Section 12243 of the Business and Professions Code is amended to read:

12243. In addition to providing notice as otherwise required, before adopting an ordinance charging fees pursuant to Section 12240, the board of supervisors shall hold at least one public meeting, at which oral or written presentations can be made, as part of a regularly scheduled meeting. Notice of the time and place of the meeting, including a general explanation of the matter to be considered, and a statement that the information required by this section is available, shall be mailed at least 14 days prior to the meeting to any interested party who files a written request with the board of supervisors. Any written request for the mailed notices shall be valid for one year from the date on which it is filed unless a renewal request is filed. Renewal requests for the mailed notices shall be filed on or before April 1 of each year. The board of supervisors may establish a reasonable annual charge for sending the notices based on the estimated cost of providing that service. At least 10 days prior to the meeting, the board of supervisors shall make available to the public information indicating the amount of cost, or estimated cost, required to provide the service for which the fee is charged and the revenue sources anticipated to provide the service, including general fund revenues. If the fees create revenues in excess of actual cost, those revenues shall be used to reduce the fee creating the excess.

CHAPTER 1246

An act to amend Section 56.10 of the Civil Code, to amend Section 53114.1 of, and to add Section 4453.5 to, the Government Code, and to amend Sections 1797.1, 1797.54, 1797.56, 1797.68, 1797.76, 1797.84, 1797.100, 1797.101, 1797.132, 1797.172, 1797.173, 1797.206, 1797.208, 1797.210, 1797.212, 1797.214, 1797.216, 1797.218, 1798.200, 1798.202, 1798.204, 1799.100, and 1799.106 of, to add Sections 1797.5, 1797.665, 1797.67, 1797.111, 1797.160, 1797.180, 1797.181, 1797.182, 1797.183, 1797.213, and 1799.110 to, to add Article 3 (commencing with Section 1797.270) to Chapter 4 of Division 2.5 of, to repeal Sections 217 and 1797.4 of, and to repeal Chapter 9 (commencing with Section 1750) of Division 2 of, the Health and Safety Code, to amend Sections 402 and 13518 of the Penal Code, and to amend Sections 165.5 and 12522 of the Vehicle Code, relating to public health and safety, and making an appropriation therefor.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 56.10 of the Civil Code is amended to read:

56.10. (a) No provider of health care shall disclose medical information regarding a patient of the provider without first obtaining an authorization, except as provided in subdivision (b) or (c).

(b) A provider of health care shall disclose medical information if the disclosure is compelled by any of the following:

(1) By a court pursuant to an order of that court.

(2) By a board, commission, or administrative agency for purposes of adjudication pursuant to its lawful authority.

(3) By a party to a proceeding before a court or administrative agency pursuant to a subpoena, subpoena duces tecum, notice to appear served pursuant to Section 1987 of the Code of Civil Procedure, or any provision authorizing discovery in a proceeding before a court or administrative agency.

(4) By a board, commission, or administrative agency pursuant to an investigative subpoena issued under Article 2 (commencing with Section 11180) of Chapter 2 of Part 1 of Division 3 of Title 2 of the Government Code.

(5) By an arbitrator or arbitration panel, when arbitration is lawfully requested by either party, pursuant to a subpoena duces tecum issued under Section 1282.6 of the Code of Civil Procedure, or any other provision authorizing discovery in a proceeding before an arbitrator or arbitration panel.

(6) By a search warrant lawfully issued to a government law enforcement agency.

(7) When otherwise specifically required by law.

(c) A provider of health care may disclose medical information as follows:

(1) The information may be disclosed to providers of health care or other health care professionals or facilities for purposes of diagnosis or treatment of the patient. This includes, in an emergency situation, the communication of patient information by radio transmission between emergency medical personnel at the scene of an emergency, or in an emergency medical transport vehicle, and emergency medical personnel at a health facility licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

(2) The information may be disclosed to an insurer, employer, health care service plan, hospital service plan, employee benefit plan, governmental authority, or any other person or entity responsible for paying for health care services rendered to the patient, to the extent necessary to allow responsibility for payment to be determined and payment to be made. The information may also be disclosed to another provider as necessary to assist the other provider in obtaining payment for health care services rendered by that provider to the patient.

(3) The information may be disclosed to any person or entity that provides billing, claims management, medical data processing, or other administrative services for providers or for any of the persons or entities specified in paragraph (2). However, no information so disclosed shall be further disclosed by the recipient in any way which would be violative of this part.

(4) The information may be disclosed to organized committees and agents of professional societies or of medical staffs of licensed hospitals, or to professional standards review organizations, or to persons or organizations insuring, responsible for, or defending professional liability which a provider may incur, if the committees, agents, organizations, or persons are engaged in reviewing the competence or qualifications of health care professionals or in reviewing health care services with respect to medical necessity, level of care, quality of care, or justification of charges.

(5) The information in the possession of any provider of health care may be reviewed by any private or public body responsible for licensing or accrediting such provider of health care. However, no patient identifying medical information may be removed from the premises except as expressly permitted or required elsewhere by law.

(6) The information may be disclosed to the county coroner in the course of an investigation by the coroner's office.

(7) The information may be disclosed to public agencies, clinical investigators, health care research organizations, and accredited public or private nonprofit educational or health care institutions for bona fide research purposes. However, no information so disclosed shall be further disclosed by the recipient in any way which would permit identification of the patient.

(8) A provider of health care that has created medical information as a result of employment-related health care services to an employee conducted at the specific prior written request and expense of the employer may disclose to the employee's employer that part of the information which:

(A) Is relevant in a law suit, arbitration, grievance, or other claim or challenge to which the employer and the employee are parties and in which the patient has placed in issue his or her medical history, mental or physical condition, or treatment, provided it may only be used or disclosed in connection with that proceeding.

(B) Describes functional limitations of the patient that may entitle the patient to leave from work for medical reasons or limit the patient's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

(9) Unless the provider is notified in writing of an agreement by the sponsor, insurer, or administrator to the contrary, the information may be disclosed to a sponsor, insurer, or administrator of a group or individual insured or uninsured plan or policy which the patient seeks coverage by or benefits from, if the information was

created by the provider of health care as the result of services conducted at the specific prior written request and expense of the sponsor, insurer, or administrator for the purpose of evaluating the application for coverage or benefits.

(10) The information may be disclosed to a group practice prepayment health care service plan by providers which contract with the plan and may be transferred among providers which contract with the plan, for the purpose of administering the plan. Medical information may not otherwise be disclosed by a group practice prepayment health care service plan except in accordance with the provisions of this part.

(11) Nothing in this part shall prevent the disclosure by a provider of health care to an insurance institution, agent, or support organization, subject to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, of medical information if the insurance institution, agent, or support organization has complied with all requirements for obtaining the information pursuant to Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code.

SEC. 2. Section 4453.5 is added to the Government Code, to read:

4453.5. (a) In addition to any other inspection requirements pertaining to building standards of state and school district buildings used by the public, the construction of which are under the jurisdiction of the Office of the State Architect in the Department of General Services, accessibility to persons with handicaps may be inspected pursuant to subdivision (b) in state and school district buildings used by the public in order to determine if the building meets minimum state standards for accessibility to handicapped persons.

(b) Inspection and approval may be made on a voluntary basis by one or more persons who have physical disabilities or who represent the interests of physically disabled persons, who are familiar with the California access laws and standards, and who have been chosen by the Department of Rehabilitation. The Department of Rehabilitation may assign these volunteers to inspect those state and school district buildings used by the public specified in subdivision (a). If the volunteer inspector finds that a building does not meet minimum state standards for accessibility to handicapped persons, the volunteer shall report this information to the Department of Rehabilitation, which shall in turn report the information to the school district if a school building is involved, to the owning agencies if a state building is involved, and to the Office of the State Architect. When, after receipt of this information, the Office of the State Architect confirms that the building does not meet minimal state standards for accessibility to handicapped persons, the Office of the State Architect shall develop a plan to be filed with the jurisdiction owning the building that addresses the correction of the identified deficiencies.

(c) The provisions of this section shall only pertain to state and

school district buildings used by the public for which building plans have been filed with the Office of the State Architect on or after January 1, 1985.

SEC. 3. Section 53114.1 of the Government Code is amended to read:

53114.1. To accomplish the responsibilities specified in this article, the Communications Division is directed to consult at regular intervals with the State Fire Marshal, the State Department of Health Services, the Governor's Office of Traffic Safety, the Office of Emergency Services, the California Council on Criminal Justice, the public utilities in this state providing telephone service, the Associated Public Safety Communications Officers, the Emergency Medical Services Authority, the California Highway Patrol, and the State Department of Forestry. These agencies shall provide all necessary assistance and consultation to the Communications Division to enable it to perform its duties specified in this article.

SEC. 4. Section 217 of the Health and Safety Code is repealed.

SEC. 5. Chapter 9 (commencing with Section 1750) of Division 2 of the Health and Safety Code is repealed.

SEC. 6. Section 1797.1 of the Health and Safety Code is amended to read:

1797.1. The Legislature finds and declares that it is the intent of this act to provide the state with a statewide system for emergency medical services by establishing within the Health and Welfare Agency the Emergency Medical Services Authority, which is responsible for the coordination and integration of all state activities concerning emergency medical services.

SEC. 7. Section 1797.4 of the Health and Safety Code is repealed.

SEC. 8. Section 1797.5 is added to the Health and Safety Code, to read:

1797.5. It is the intent of the Legislature to promote the development, accessibility, and provision of emergency medical services to the people of the State of California.

Further, it is the policy of the State of California that people shall be encouraged and trained to assist others at the scene of a medical emergency. Local governments, agencies, and other organizations shall be encouraged to offer training in cardiopulmonary resuscitation and lifesaving first aid techniques so that people may be adequately trained, prepared, and encouraged to assist others immediately.

SEC. 9. Section 1797.54 of the Health and Safety Code is amended to read:

1797.54. "Authority" means the Emergency Medical Services Authority established by this part.

SEC. 10. Section 1797.56 of the Health and Safety Code is amended to read:

1797.56. "Authorized registered nurse" means a registered nurse who has been certified by a county health officer or county designated physician as qualified in the provision of emergency

cardiac care and noncardiac care, and in the issuance of emergency instruction to EMT-IIs or EMT-Ps.

SEC. 11. Section 1797.665 is added to the Health and Safety Code, immediately following Section 1797.66, to read:

1797.665. "County designated physician" means the licensed physician and surgeon designated as medical director of the local EMS agency pursuant to Section 1797.202.

SEC. 12. Section 1797.67 is added to the Health and Safety Code, to read:

1797.67. "Designated facility" means a hospital which has been designated by a local EMS agency to perform specified emergency medical services systems functions pursuant to guidelines established by the authority.

SEC. 13. Section 1797.68 of the Health and Safety Code is amended to read:

1797.68. "Director" means the Director of the Emergency Medical Services Authority.

SEC. 14. Section 1797.76 of the Health and Safety Code is amended to read:

1797.76. "Emergency medical services plan" means a plan for the delivery of emergency medical services consistent with state guidelines addressing the components listed in Section 1797.103.

SEC. 15. Section 1797.84 of the Health and Safety Code is amended to read:

1797.84. "Emergency Medical Technician-Paramedic," "EMT-P," "paramedic" or "mobile intensive care paramedic" means an individual whose scope of practice to provide advanced life support is according to standards prescribed by this part and who has a valid certificate issued pursuant to this part.

SEC. 16. Section 1797.100 of the Health and Safety Code is amended to read:

1797.100. There is in the state government in the Health and Welfare Agency, the Emergency Medical Services Authority.

SEC. 17. Section 1797.101 of the Health and Safety Code is amended to read:

1797.101. The Emergency Medical Services Authority shall be headed by the Director of the Emergency Medical Services Authority who shall be appointed by the Governor upon nomination by the Secretary of the Health and Welfare Agency. The director shall be a physician and surgeon licensed in California pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and who has substantial experience in the practice of emergency medicine.

SEC. 18. Section 1797.111 is added to the Health and Safety Code, to read:

1797.111. With the approval of the Department of Finance, and for use in the furtherance of the work of the authority, the director may accept all of the following:

(a) Grants of interest in real property.

(b) Gifts of money from public agencies or from organizations or associations organized for scientific, educational, or charitable purpose.

SEC. 19. Section 1797.132 of the Health and Safety Code is amended to read:

1797.132. An Interdepartmental Committee on Emergency Medical Services is hereby established. This committee shall advise the authority on the coordination and integration of all state activities concerning emergency medical services. The committee shall include a representative from each of the following state agencies and departments: the Office of Emergency Services, the Department of the California Highway Patrol, the Department of Motor Vehicles, a representative of the administrator of the California Traffic Safety Program as provided by Chapter 5 (commencing with Section 2900) of Division 2 of the Vehicle Code, the Board of Medical Quality Assurance, the State Department of Health Services, the Board of Registered Nursing, the State Department of Education, the National Guard, the Office of Statewide Health Planning and Development, the State Fire Marshal, the California Conference of Local Health Officers, the Department of Forestry, the Chancellor's Office of the California Community Colleges, and the Department of General Services.

SEC. 20. Section 1797.160 is added to the Health and Safety Code, to read:

1797.160. No owner of a publicly or privately owned ambulance shall permit the operation of the ambulance in emergency service unless the attendant on duty therein, or, if there is no attendant on duty therein, the operator, possesses evidence of that specialized training as is reasonably necessary to ensure that the attendant or operator is competent to care for sick or injured persons who may be transported by the ambulance, as set forth in the emergency medical training and educational standards for ambulance personnel established by the authority pursuant to this article. This section shall not be applicable in any state of emergency declared pursuant to the California Emergencies Services Act (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code), when it is necessary to fully utilize all available ambulances in an area and it is not possible to have the ambulance operated or attended by persons with the qualifications required by this section.

SEC. 21. Section 1797.172 of the Health and Safety Code is amended to read:

1797.172. The authority shall develop, and after the approval of the commission pursuant to Section 1799.50, shall adopt, minimum standards for the training and scope of practice for EMT-P. Until such time as the standards of the authority are developed, approved, and adopted, the training standards shall be as specified in Section 1481.1, and the following standards shall apply for the scope of practice of EMT-P:

(a) Render rescue, first aid, and resuscitation services.

(b) Perform cardiopulmonary resuscitation and defibrillation.

(c) During training and while caring for patients in a participating general acute care hospital under the direct supervision of a physician or authorized registered nurse, or while at the scene of a medical emergency and during transport when medical control, as described in Chapter 5 (commencing with Section 1798), is maintained by a physician or an authorized registered nurse, an EMT-P may:

(1) Administer intravenous saline, glucose or volume expanding agents or solutions.

(2) Perform gastric suction by intubation.

(3) Perform pulmonary ventilation by use of esophageal airway or other airway management techniques approved by the county health officer

(4) Obtain blood for laboratory analysis.

(5) Apply rotating tourniquets.

(6) Administer parenterally, orally, or topically any of the following classes of drugs or solutions:

(A) Antiarrhythmic agents.

(B) Vagolytic agents.

(C) Chronotropic agents.

(D) Analgesic agents.

(E) Alkalinizing agents.

(F) Vasopressor agents.

(G) Narcotic antagonists.

(H) Diuretics.

(I) Anticonvulsants.

(J) Opthalmic agents.

(K) Oxytocic agents.

(L) Antihistaminics.

(M) Bronchodilators.

(N) Emetics.

(7) Assist in childbirth.

(8) Apply antishock trousers.

(9) Perform any other standard emergency medical treatment practice approved by the county health officer.

(d) In accordance with Chapter 5 (commencing with Section 1798), an EMT-P may initiate the following forms of emergency treatment prior to voice or telemetry contact with a qualified physician or authorized registered nurse:

(1) Administer intravenous saline, glucose, or volume expanding agents or solutions when it is reasonably determined that the patient has sustained cardiac or pulmonary arrest or is in extremes from hypovolemic shock.

(2) Perform pulmonary ventilation by use of airway management techniques approved by the county health officer when it is reasonably determined that a patient has sustained a pulmonary arrest.

(3) Apply antishock trousers when it is reasonably determined

that the condition of the patient necessitates such action.

(e) When an EMT-P who, at the scene of an emergency, reasonably determines that voice contact or a telemetered electrocardiogram for monitoring by a physician or authorized registered nurse cannot be established or maintained and that a delay in treatment may jeopardize the life of a patient, and when authorized by policies and procedures approved by the local EMS authority, the EMT-P may initiate any paramedic procedure specified in this section in which such EMT-P has received training until such direct communication may be established and maintained or until the patient is brought to a general acute care hospital.

SEC. 22. Section 1797.173 of the Health and Safety Code is amended to read:

1797.173. The authority shall assure that all training programs for EMT-I, EMT-II, and EMT-P are located in an approved licensed hospital or an educational institution operated with written agreements with an acute care hospital, including a public safety agency that has been approved by the local emergency medical services agency to provide training. The authority shall also assure that each training program has a competency-based curriculum. EMT-I training and testing for fire service personnel may be offered at sites approved by the State Board of Fire Services and training for officers of the California Highway Patrol may be provided at the California Highway Patrol Academy.

SEC. 23. Section 1797.180 is added to the Health and Safety Code, to read:

1797.180. No agency, public or private, shall advertise or disseminate information to the public that the agency provides EMT-II or EMT-P rescue or ambulance services unless that agency does in fact provide this service on a continuous 24 hours-per-day basis. If advertising or information regarding that agency's EMT-II or EMT-P rescue or ambulance service appears on any vehicle it may only appear on those vehicles utilized solely to provide that service on a continuous 24 hours-per-day basis.

SEC. 24. Section 1797.181 is added to the Health and Safety Code, to read:

1797.181. The authority may, by regulation, prescribe standardized insignias or emblems for patches which may be affixed to the clothing of an EMT-I, EMT-II, or EMT-P.

SEC. 25. Section 1797.182 is added to the Health and Safety Code, to read:

1797.182. All ocean, public beach, and public swimming pool lifeguards and all firefighters in this state, except those whose duties are primarily clerical or administrative, shall be trained to administer first aid and cardiopulmonary resuscitation. The training shall meet standards prescribed by the authority, and shall be satisfactorily completed by such persons as soon as practical, but in no event more than one year after the date of employment. Satisfactory completion of a refresher course which meets the standards prescribed by the

authority in cardiopulmonary resuscitation and other first aid shall be required at least every three years.

The authority may designate a public agency or private nonprofit agency to provide for each county the training required by this section. The training shall be provided at no cost to the trainee.

As used in this section, "lifeguard" means any regularly employed and paid officer, employee, or member of a public aquatic safety department or marine safety agency of the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state.

As used in this section, "firefighter" means any regularly employed and paid officer, employee, or member of a fire department or fire protection or firefighting agency of the State of California, a city, county, city and county, district, or other public or municipal corporation or political subdivision of this state or member of an emergency reserve unit of a volunteer fire department or fire protection district.

SEC. 26. Section 1797.183 is added to the Health and Safety Code, to read:

1797.183. All peace officers described in Section 13518 of the Penal Code, except those whose duties are primarily clerical or administrative, shall be trained to administer first aid and cardiopulmonary resuscitation (CPR). The training shall meet standards prescribed by the authority, in consultation with the Commission on Peace Officers Standards and Training, and shall be satisfactorily completed by those officers as soon as practical, but in no event more than one year after the date of employment. Satisfactory completion of either refresher training or appropriate testing, which meets the standards of the authority, in cardiopulmonary resuscitation and other first aid, shall be required at periodic intervals as determined by the authority.

SEC. 27. Section 1797.206 of the Health and Safety Code is amended to read:

1797.206. The local EMS agency shall be responsible for implementation of advanced life support systems and limited advanced life support systems and for the monitoring of training programs.

SEC. 28. Section 1797.208 of the Health and Safety Code is amended to read:

1797.208. The local EMS agency shall be responsible for determining that the operation of training programs at the EMT-I, EMT-II, and EMT-P levels are in compliance with this part, and shall approve the training programs if they are found to be in compliance with this part. The training program at the California Highway Patrol Academy shall be exempt from the provisions of this section.

SEC. 29. Section 1797.210 of the Health and Safety Code is amended to read:

1797.210. The medical director of the local EMS agency shall issue a certificate to an individual upon proof of satisfactory completion of

an approved training program and passage of the examination for competence. The certificate shall be proof of the individual's initial competence to perform at the designated level. The medical director of the local EMS agency shall recertify EMT-I's, EMT-II's, and EMT-P's through passage of an examination for competency at least every two years.

SEC. 30. Section 1797.212 of the Health and Safety Code is amended to read:

1797.212. The local EMS agency may establish a schedule of fees for certification in an amount sufficient to cover the reasonable cost of administering the certification provisions of this part.

SEC. 31. Section 1797.213 is added to the Health and Safety Code, to read:

1797.213. Any local EMS agency conducting a program pursuant to this article may provide courses of instruction and training leading to certification as an EMT-I, EMT-II, EMT-P, or authorized registered nurse. When such instruction and training are provided, a fee may be charged sufficient to defray the cost of such instruction and training.

SEC. 32. Section 1797.214 of the Health and Safety Code is amended to read:

1797.214. A local EMS agency may require additional training or qualifications which are greater than those provided in this chapter as a condition precedent for practice within such EMS area in an advanced life support or limited advanced life support prehospital care system.

SEC. 33. Section 1797.216 of the Health and Safety Code is amended to read:

1797.216. For public safety personnel, public safety agencies may certify and recertify as EMT-I, and for fire safety personnel, the State Board of Fire Services may certify and recertify as EMT-I, those persons who have completed a program of training approved by the local EMS agency and passed a competency based examination.

SEC. 34. Section 1797.218 of the Health and Safety Code is amended to read:

1797.218. Any local EMS agency may authorize an advanced life support or limited advanced life support program which provides services utilizing EMT-II or EMT-P, or both, for the delivery of emergency medical care to the sick and injured at the scene of an emergency, during transport to a general acute care hospital, during interfacility transfer, while in the emergency department of a general acute care hospital until care responsibility is assumed by the regular staff of that hospital, and during training within the facilities of a participating general acute care hospital.

SEC. 35. Article 3 (commencing with Section 1797.270) is added to Chapter 4 of Division 2.5 of the Health and Safety Code, to read:

Article 3. Emergency Medical Care Committee

1797.270. An emergency medical care committee shall be established in each county in this state. Nothing in this division should be construed to prevent two or more adjacent counties from establishing a single committee for review of emergency medical care in these counties.

1797.272. The county board of supervisors shall prescribe the membership, and appoint the members, of the emergency medical care committee. If two or more adjacent counties establish a single committee, the county boards of supervisors shall jointly prescribe the membership, and appoint the members of the committee.

1797.274. The emergency medical care committee shall, at least annually, review the operations of each of the following:

(a) Ambulance services operating within the county.

(b) Emergency medical care offered within the county, including programs for training large numbers of people in cardiopulmonary resuscitation and lifesaving first aid techniques.

(c) First aid practices in the county.

1797.276. Every emergency medical care committee shall, at least annually, report to the authority, the affected health systems agency, and the local EMS agency its observations and recommendations relative to its review of the ambulance services, emergency medical care, and first aid practices, and programs for training people in cardiopulmonary resuscitation and lifesaving first aid techniques, and public participation in such programs in that county. The emergency medical care committee shall submit its observations and recommendations to the county board or boards of supervisors which it serves and shall act in an advisory capacity to the county board or boards of supervisors which it serves, and to the local EMS agency, on all matters relating to emergency medical services as directed by the board or boards of supervisors.

SEC. 36. Section 1798.200 of the Health and Safety Code is amended to read:

1798.200. The medical director of the local EMS agency may place on probation any certificate holder or suspend or revoke any certificate issued under the provisions of this part and in accordance with guidelines established by the authority upon the finding by that medical director of an imminent threat to the public health and safety as evidenced by the occurrence of any of the following actions:

(a) Fraud in the procurement of any certification under this part.

(b) Gross negligence.

(c) Repeated negligent acts.

(d) Incompetence.

(e) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, and duties of prehospital personnel.

(f) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The

record of conviction or certified copy thereof shall be conclusive evidence of such conviction.

(g) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this part or the regulations promulgated by the authority pertaining to prehospital personnel.

(h) Violating or attempting to violate any federal or state statute or regulation which regulates narcotics, dangerous drugs, or controlled substances.

(i) Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(j) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

SEC. 37. Section 1798.202 of the Health and Safety Code is amended to read:

1798.202. The local EMS agency may place on probation, suspend, or revoke the approval under this part of any training program for failure to comply with the provisions of this part or any rules or regulations adopted pursuant thereto.

SEC. 38. Section 1798.204 of the Health and Safety Code is amended to read:

1798.204. Proceedings for probation, suspension, revocation, or denial of a certificate, or a denial of a renewal of a certificate, under this part shall be conducted in accordance with guidelines established by the Emergency Medical Services Authority.

SEC. 39. Section 1799.100 of the Health and Safety Code is amended to read:

1799.100. In order to encourage local agencies and other organizations to train people in emergency medical services, no local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, or certifies those people, excluding physicians and surgeons, registered nurses, and licensed vocational nurses, as defined, in emergency medical services, shall be liable for any civil damages alleged to result from those training programs.

SEC. 40. Section 1799.106 of the Health and Safety Code is amended to read:

1799.106. In addition to the provisions of Section 1799.104 of this code and of Section 1714.2 of the Civil Code and in order to encourage the provision of emergency medical services by firefighters, police officers or other law enforcement officers, EMT-I, EMT-II, or EMT-P, a firefighter, police officer or other law enforcement officer, EMT-I, EMT-II, or EMT-P who renders emergency medical services at the scene of an emergency shall only be liable in civil damages for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. A public agency employing such a firefighter, police officer or other law enforcement officer, EMT-I, EMT-II, or EMT-P shall not be

liable for civil damages if the firefighter, police officer or other law enforcement officer, EMT-I, EMT-II, or EMT-P is not liable.

SEC. 41. Section 1799.110 is added to the Health and Safety Code, to read:

1799.110. (a) In any action for damages involving a claim of negligence against a physician and surgeon arising out of emergency medical services provided in a general acute care hospital emergency department, the trier of fact shall consider, together with all other relevant matters, the circumstances constituting the emergency, as defined herein, and the degree of care and skill ordinarily exercised by reputable members of the physician and surgeon's profession in the same or similar locality, in like cases, and under similar emergency circumstances.

(b) For the purposes of this section, "emergency medical services" and "emergency medical care" means those medical services required for the immediate diagnosis and treatment of medical conditions which, if not immediately diagnosed and treated, could lead to serious physical or mental disability or death.

(c) In any action for damages involving a claim of negligence against a physician and surgeon providing emergency medical coverage for a general acute care hospital emergency department, the court shall admit expert medical testimony only from physicians and surgeons who have had substantial professional experience within the last five years while assigned to provide emergency medical coverage in a general acute care hospital emergency department. For purposes of this section, "substantial professional experience" shall be determined by the custom and practice of the manner in which emergency medical coverage is provided in general acute care hospital emergency departments in the same or similar localities where the alleged negligence occured.

SEC. 42. Section 402 of the Penal Code is amended to read:

402. Every person who goes to the scene of an emergency, or stops at the scene of an emergency, for the purpose of viewing the scene or the activities of police officers, firefighters, emergency medical, or other emergency personnel, or military personnel coping with the disaster in the course of their duties during the time it is necessary for emergency vehicles or those personnel to be at the scene of the emergency or to be moving to or from the scene of the disaster for the purpose of protecting lives or property, unless it is part of the duties of that person's employment to view that scene or activities, and thereby impedes police officers, firefighters, emergency medical, or other emergency personnel or military personnel, in the performance of their duties in coping with the emergency, is guilty of a misdemeanor.

For the purposes of this section, an emergency includes a condition or situation involving injury to persons, damage to property, or peril to the safety of persons or property, which results from a fire, an explosion, an airplane crash, flooding, windstorm damage, a railroad accident, a traffic accident, a power plant accident, a toxic chemical

or biological spill, or any other natural or human-caused event.

SEC. 43. Section 13518 of the Penal Code is amended to read:

13518. (a) Every city police officer, sheriff, deputy sheriff, peace officer member of the California State Police, peace officer member of the California Highway Patrol, and police officer of a district authorized by statute to maintain a police department, except those whose duties are primarily clerical or administrative, shall meet the training standards prescribed by the Emergency Medical Services Authority for the administration of first aid and cardiopulmonary resuscitation. In addition, satisfactory completion of periodic refresher training or appropriate testing in cardiopulmonary resuscitation and other first aid as prescribed by the Emergency Medical Services Authority shall also be required.

(b) The course of training leading to the basic certificate issued by the commission shall include adequate instruction in the procedures described in subdivision (a). No reimbursement shall be made to local agencies based on attendance at any such course which does not comply with the requirements of this subdivision.

(c) As used in this section, "primarily clerical or administrative" means the performance of clerical or administrative duties for a minimum of 90 percent of the time worked within a pay period.

SEC. 44. Section 165.5 of the Vehicle Code is amended to read:

165.5. No act or omission of any rescue team operating in conjunction with an authorized emergency vehicle as defined in Section 165, while attempting to resuscitate any person who is in immediate danger of loss of life, shall impose any liability upon the rescue team or the owners or operators of any authorized emergency vehicle, if good faith is exercised.

For the purposes of this section, "rescue team" means a special group of physicians and surgeons, nurses, volunteers, or employees of the owners or operators of the authorized emergency vehicle who have been trained in cardiopulmonary resuscitation and have been designated by the owners or operators of the emergency vehicle to attempt to resuscitate persons who are in immediate danger of loss of life in cases of emergency.

This section shall not relieve the owners or operators of any other duty imposed upon them by law for the designation and training of members of a rescue team or for any provisions regarding maintenance of equipment to be used by the rescue team.

Members of a rescue team shall receive such training in a program approved by, or conforming to, standards prescribed by an emergency medical care committee established pursuant to Article 3 (commencing with Section 1797.270) of Chapter 4 of Division 2.5 of the Health and Safety Code, or a voluntary area health planning agency established pursuant to Section 437.7 of the Health and Safety Code.

SEC. 45. Section 12522 of the Vehicle Code is amended to read:

12522. (a) Every person who operates a schoolbus in the transportation of school pupils shall, in addition to any other

requirement for a schoolbus driver's certificate, qualify by an examination on first aid practices deemed necessary for schoolbus operators. Standards for examination shall be determined by the Emergency Medical Services Authority after consultation with the State Department of Education, the Department of Motor Vehicles, and the Department of the California Highway Patrol. The local school authority employing the applicant shall provide a course of instruction concerning necessary first aid practices.

(b) The California Highway Patrol shall conduct the first aid examination as part of the examination of applicants for a schoolbus driver's certificate and shall certify to the Department of Motor Vehicles that the applicant has satisfactorily demonstrated his or her qualifications in first aid practices, knowledge of schoolbus laws and regulations, and ability to operate a schoolbus. The first aid certifications shall be valid for the term of the schoolbus driver's certificate.

(c) The first aid examination shall be waived if the applicant possesses and maintains a current first aid certificate issued by the American Red Cross or United States Bureau of Mines, or a current license as a physician and surgeon, osteopath, or registered nurse, or a current certificate as a physician's assistant or emergency medical technician throughout the term of the schoolbus driver's certificate and presents it upon demand of any traffic officer. The schoolbus driver's certificate shall not be valid during any time that the driver fails to maintain and possess that license or certificate after the first aid examination has been waived.

(d) No person shall be denied a schoolbus driver's certificate if he is in the process of completing a first aid course which will satisfy the requirements of this section. If the course or examination given pursuant to this section is not satisfactorily completed within 90 days from the issuance of the certificate, the certificate becomes invalid on the 91st day after the date of issuance.

SEC. 46. Section 45 of this act shall become operative July 1, 1984.

SEC. 47. Section 1 and Sections 3 to 45, inclusive, of this act are intended by the Legislature only as a recompilation of existing law, and it is not the intent of the Legislature to affect pending litigation regarding the scope, validity, or constitutionality of the Medical Malpractice Reform Act as enacted by Chapters 1 and 2 of the 1975 Second Extraordinary Session.

SEC. 48. Notwithstanding any other provision of law, the moneys allocated in paragraph (1) of subdivision (a) of Section 7 of Chapter 903 of the Statutes of 1982 are hereby reappropriated for expenditure in the 1983–84 fiscal year.

SEC. 49. 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 1247

An act to amend Section 1747.85 of the Civil Code, relating to credit cards.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 1747.85 of the Civil Code is amended to read:

1747.85. Unless requested by the cardholder, no card issuer shall cancel a credit card without having first given the cardholder 30 days' written notice of its intention to do so unless the cardholder is or has been within the last 90 days in default of payment or otherwise in violation of any provision of the agreement between the card issuer and the cardholder governing the cardholder's use of the credit card or unless the card issuer has evidence or reasonable belief that the cardholder is unable or unwilling to repay obligations incurred under the agreement or that an unauthorized use of the card may be made.

Nothing provided herein shall be construed to prohibit a card issuer from placing the account of a cardholder on inactive status if the cardholder has not used the card for a period in excess of 18 months or from requiring that cardholder, upon subsequent reuse of a card, to provide to the card issuer such updated information as will enable the card issuer to verify the current creditworthiness of the cardholder.

CHAPTER 1248

An act to add and repeal Sections 41511.5, 41511.6, and 41511.7 of the Health and Safety Code, relating to air pollution.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 41511.5 is added to the Health and Safety Code, to read:

41511.5. Notwithstanding any other provision of this division, district rules and regulations pertaining to new source review for

food processors shall be amended to reflect the emissions cutoff level adopted by the state board for seasonal particulate sources within the Sacramento Valley Air Basin, and the same cutoff level, 1,000 pounds per day, but not to exceed 50 tons per year, shall be used to define new source review emissions criteria for food processors' new facilities.

A district shall exempt food processors from new source review regulations when there is a need to modify a facility because of either of the following:

(a) There is a demonstrated shortage of gaseous fuel because of a supply shortage or curtailment by a public utility.

(b) There is an economic advantage to modify and convert to the use of liquid or alternative fuels.

The exemption for modifications to existing food processors' facilities does not apply when increased emissions exceed the federal criteria of 40 tons per year of nitrogen oxides, 40 tons per year of sulfur dioxide, 40 tons per year of ozone (volatile organic compounds), or 25 tons per year of particulate matter.

This section shall be inoperative if the Environmental Protection Agency disapproves the amended state implementation plan as a result of the provisions of this section and Section 41511.6 or 41511.7, or shall be inoperative within any district in which applicable sanctions are imposed under the Clean Air Act as a result of this section or Section 41511.6 or 41511.7.

Any revision of the state implementation plan as a result of this section or Section 41511.6 or 41511.7 shall be submitted to the Environmental Protection Agency by July 1, 1984.

If the state implementation plan is disapproved by the Environmental Protection Agency as a result of this section or Section 41511.6 or 41511.7, the state board shall submit written notification to the Secretary of State that this section is inoperative.

If sanctions are imposed as a result of any of these sections the state board shall submit written notification to the Secretary of State stating the districts in which this section is inoperative and shall notify those districts in writing.

This section and Sections 41511.6 and 41511.7 do not apply to the south coast district.

This section shall remain in effect only until January 1, 1988, and as of that date is repealed, unless a later enacted statute, which is chaptered before January 1, 1988, deletes or extends that date.

SEC. 2. Section 41511.6 is added to the Health and Safety Code, to read:

41511.6. Any prevention of significant deterioration rule of a district, when applied to food processors, shall be no more stringent than that required by the Environmental Protection Agency.

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.

This section shall be inoperative if the Environmental Protection

Agency disapproves the amended state implementation plan as a result of the provisions of this section and Section 41511.5 or 41511.7, or shall be inoperative within any district in which applicable sanctions are imposed under the Clean Air Act as a result of this section or Section 41511.5 or 41511.7.

Any revision of the state implementation plan as a result of this section or Section 41511.5 or 41511.7 shall be submitted to the Environmental Protection Agency by July 1, 1984.

If the state implementation plan is disapproved by the Environmental Protection Agency as a result of this section or Section 41511.5 or 41511.7, the state board shall submit written notification to the Secretary of State that this section is inoperative.

If sanctions are imposed as a result of any of these sections, the state board shall submit written notification to the Secretary of State stating the districts in which this section is inoperative and shall notify those districts in writing.

SEC. 3. Section 41511.7 is added to the Health and Safety Code, to read:

41511.7. The rules and regulations of a district imposing prohibitions on particulate emissions for each food processor's permitted source shall be consistent with the state board's adopted emissions level of 480 pounds per day, but not to exceed 20 pounds per hour, which has been adopted for seasonal particulate sources for districts in the Sacramento Valley Air Basin.

As used in Sections 41511.5 and 41511.6 and this section, "food processor" means a processor of food which is classified according to the Standard Industrial Classification Manual, 1972, Group 203, Canned and Preserved Fruits and Vegetables, (Division D, Manufacturing, Major Group 20, Food and Kindred Products).

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.

This section shall be inoperative if the Environmental Protection Agency disapproves the amended state implementation plan as a result of the provisions of this section and Section 41511.5 or 41511.6, or shall be inoperative within any district in which applicable sanctions are imposed under the Clean Air Act as a result of this section or Section 41511.5 or 41511.6.

Any revision of the state implementation plan as a result of this section or Section 41511.5 or 41511.6 shall be submitted to the Environmental Protection Agency by July 1, 1984.

If the state implementation plan is disapproved by the Environmental Protection Agency as a result of this section or Section 41511.5 or 41511.6, the state board shall submit written notification to the Secretary of State that this section is inoperative.

If sanctions are imposed as a result of any of these sections, the state board shall submit written notification to the Secretary of State stating the districts in which this section is inoperative and shall notify those districts in writing

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 1249

An act to amend Sections 73481, 73562, 73565, 73566, 73567, 73568, 73643, 73953, 73959.2, 74343, 74343.4, 74361, 74364, and 74743 of, and to repeal Section 73481.5 of, the Government Code, relating to courts.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 73481 of the Government Code is amended to read:

73481. There shall be two judges.

SEC. 2. Section 73481.5 of the Government Code is repealed.

SEC. 3. Section 73562 of the Government Code is amended to read:

73562. There shall be seven judges of the Monterey County Municipal Court District; provided, that at such time as the Central and Southern Justice Court Districts are consolidated with the Monterey County Municipal Court District, there shall be nine judges of the Monterey County Municipal Court District.

SEC. 4. Section 73565 of the Government Code is amended to read:

73565. The municipal court judges may, by a majority vote, appoint a municipal court administrator who shall be the clerk of the municipal court. The municipal court administrator shall serve at the pleasure of a majority of the judges. He shall receive a salary of three thousand four hundred fifty-one dollars ($3,451) monthly, provided, however, that the salary may be adjusted pursuant to Section 73568. He shall be the appointing authority for those positions listed in Section 73566.

The municipal court judges shall prescribe and regulate by majority vote the duties and authority of the municipal court administrator among which shall be:

(a) To direct and coordinate the nonjudicial activities of the district.

(b) To coordinate the personnel practices in compliance with rules of the district and those of the County of Monterey.

(c) To prepare and administer the budget of the district.

(d) To coordinate with county agencies, the acquisition, utilization, maintenance, and disposition of facilities, equipment, and supplies necessary for the operation of the district.

(e) To initiate studies and prepare appropriate recommendations and reports to the presiding judge and judges relating to the business of the district, including, but not limited to, such matters as standardization of forms, procedures, and of classification and compensation of court attachés.

(f) To collect, compare, and analyze statistical data on a continuing basis concerning the status of judicial and nonjudicial business of the district and to prepare periodic reports and recommendations based on such data.

(g) To provide for and conduct a program of in-service training for the personnel of the municipal court.

(h) To prepare procedural guides for the personnel of the municipal court.

(i) To make arrangements for and attend all meetings of the judges, to assist in the preparation of the agenda, and to prepare minutes of the meetings of the judges.

(j) To serve as liaison for the district with other persons, committee boards, groups, and associations as directed by the presiding judge.

(k) To assist Monterey County justice courts upon request of the justice court judge and approval of the Monterey County Board of Supervisors.

SEC. 5. Section 73566 of the Government Code is amended to read:

73566. The number of positions within each job classification which may be filled by appointment by the municipal court administrator, and the salary which constitutes the compensation for each job classification, are as follows; provided, however, that the board of supervisors may adjust the monthly salary pursuant to Section 73568, and may adjust the number and classification of positions pursuant to Section 73569:

Number	Job classification	Monthly salary
2	Municipal Court Branch Manager	$2,789 Flat
1	Administration Services Officer I	2,238–2,773
1	Accountant Auditor	1,651–2,045
2	Municipal Court Calendar Coordinator	1,465–1,814
1	Departmental Data Processing Coordinator	1,379–1,709
1	Accounting Technician	1,428–1,770
1	Senior Account Clerk	1,230–1,524
5	Account Clerk	1,075–1,332
7	Municipal Court Clerk IV	1,345–1,667

5	Municipal Court Clerk III	1,212–1,501
23	Municipal Court Clerk II	1,075–1,332
8	Municipal Court Clerk I	1,023–1,267
9	Courtroom Clerk	1,386–1,718
1	Court Interpreter	1,280–1,586
2	Secretary	1,255–1,554
2	Senior Data Entry Operator	1,194–1,479
5	Data Entry Operator II	1,043–1,293

SEC. 6. Section 73567 of the Government Code is amended to read:

73567. Whenever reference to a salary other than that of commissioner is made in any section of this article, the schedule of salaries found in the salary and benefits resolution of the County of Monterey in effect on February 1, 1983, shall apply; provided, however, that adjustments to such salaries may be made pursuant to Section 73568.

SEC. 7. Section 73568 of the Government Code is amended to read:

73568. Certain classes of positions prescribed in this article are deemed to be equivalent in job and salary level to certain classes of positions of Monterey County. In order to maintain parity of compensation and employee benefits between attachés of the municipal court and county employees having commensurate duties and responsibilities and to provide appropriate salary adjustments and employee benefits for related classes of court positions the provisions of this section shall govern salary adjustments and employee benefits for attachés of the municipal court in Monterey County.

On the effective date of any amendment to such resolution adjusting the salary of a county employee classification listed in the table of positions set forth in this section, the salary of the equivalent court position listed opposite thereto shall be adjusted an equivalent amount.

Any adjustments made pursuant to this section shall be effective on the operative date of the county salary and benefits resolution and shall remain in effect only until January 1, of the second year following the year in which such change is made, unless subsequently ratified by the Legislature.

Table of Positions

Court Classification	County Classification
Clerk and Municipal Court Administrator	Administrative Services Officer I, step 5, plus 24.6%
Municipal Court Branch Manager	Administrative Services Officer I, step 5, plus 6%
Administrative Services Officer I	Administrative Services Officer I

Accountant Auditor	Accountant Auditor
Municipal Court Calendar Coordinator	Legal Process Clerk, plus 62 ranges
Departmental Data Processing Coordinator	Departmental Data Processing Coordinator
Accounting Technician	Accounting Technician
Senior Account Clerk	Senior Account Clerk
Account Clerk	Account Clerk
Municipal Court Clerk IV	Legal Process Clerk, plus 45 ranges
Municipal Court Clerk III	Legal Process Clerk, plus 24 ranges
Municipal Court Clerk II	Legal Process Clerk
Municipal Court Clerk I	Typist Clerk II
Courtroom Clerk	Courtroom Clerk
Court Interpreter	Legal Process Clerk, plus 35 ranges
Secretary	Secretary
Senior Data Entry Operator	Senior Data Entry Operator
Data Entry Operator II	Data Entry Operator II

Attachés of the municipal court district shall be entitled to all employee benefits that are provided for or made applicable to the equivalent Monterey County employee classification, including, but not limited to, anniversary dates, changes thereto, and step advancements.

Whenever reference is made to a number of salary ranges in any section of this article, such reference shall be to ranges listed in the salary and benefits resolution of the County of Monterey in effect February 1, 1983.

SEC. 8. Section 73643 of the Government Code is amended to read:

73643. The court administrator may appoint with the approval of the judges:

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 17 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) One deputy clerk-administrative assistant I, II or III as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service of San Diego County. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service of San Diego County. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service of San Diego

County.

(c) Two chief deputy clerks each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief deputy clerk of the San Diego Judicial District.

(d) Two assistant chief deputy clerks each of whom shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk.

(e) Five supervising deputy clerks each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(f) Sixteen deputy clerks IV each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(g) Fifty-five deputy clerks III, II or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary at a rate equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

(h) Four deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County

(i) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County.

(j) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(k) Up to 10 extra help deputy clerks to be appointed at a deputy clerk I or II level as determined by the court administrator. Such appointments shall be temporary for a period of six months with option of the court administrator to extend appointments not to exceed one additional six-month period.

(*l*) Any person occupying a position specified in subdivision (g) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(m) Any person specified in subdivision (g) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate

specified for CRT machine, transcribing equipment and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(n) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. Such appointments shall be subject to the provisions and requirements of subdivision (q) of Section 74343.

(o) The provisions of Section 74343.1, except as provided herein, shall apply to the attachés appointed pursuant to this section and Section 73642.

SEC. 9. Section 73953 of the Government Code is amended to read:

73953. The court administrator shall appoint:

(a) One assistant clerk at the direction of a majority of the judges of the court, who shall serve at the pleasure of the judges. The salary of the assistant clerk shall be 17 percent below that specified for assistant clerk-administrative officer of the San Diego Judicial District.

(b) Two deputy clerks who shall be chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk. Upon the occurrence of the first vacancy in one of the positions of deputy clerk, one of the positions of chief clerk shall cease to exist; provided, however, that there shall be a concurring increase of one position in the grade of supervising deputy clerk.

(c) Two deputy clerks who shall be assistant chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk. Upon occurrence of the first vacancy in one of the positions of deputy clerk, one of the positions of assistant chief clerk shall cease to exist; provided, however, that there shall be a concurring increase of one position in the grade of supervising deputy clerk.

(d) Two supervising deputy clerks who shall receive the biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Sixteen deputy clerks IV, each of whom shall receive the biweekly salary at a rate equal to that specified for the classification of superior court clerks in the classified service of San Diego County.

(f) Eighty deputy clerks III, II, or I, as the case may be. Each deputy clerk III shall receive the biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive the biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each deputy clerk I shall receive the biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy

clerk I classification may be at any step within the salary range.

(g) Two deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for data entry operators in the classified service of San Diego County.

(h) Two deputy clerk-administrative secretaries IV, III, II or I, as the case may be. A deputy clerk-administrative secretary IV shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service in the County of San Diego. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service in the County of San Diego. A deputy clerk-administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

(i) One deputy clerk interpreter who shall receive the biweekly salary at the rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative assistant I, II, or III, as the case may be. The deputy clerk-administrative assistant I, II, or III shall receive the biweekly salary at a rate equal to that specified for administrative assistant I, II, or III respectively, in the classified service of the County of San Diego.

(k) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(*l*) Any person specified in subdivision (f) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked in a pay period. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(m) Any person specified in subdivision (h) shall be eligible for the additional compensation provided under subdivision (*l*) if such additional compensation is authorized for the comparable county classification specified in subdivision (f) of Section 74343.1.

(n) Three deputy administrative clerks III, II, or I, as the case may be. Each deputy administrative clerk III shall receive the biweekly salary at a rate equal to that specified for the classification of deputy clerk IV. Each deputy administrative clerk II shall receive the

biweekly salary at a rate equal to that specified for the classification of deputy clerk III. Each deputy administrative clerk I shall receive the biweekly salary at a rate equal to that specified for the classification of deputy clerk II. Deputy administrative clerks III, II, or I shall receive the same privileges and benefits as are received by comparable deputy clerk classes. Funding of these positions is dependent upon enactment of an additional resolution by the Board of Supervisors of the County of San Diego.

(o) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. Such appointments shall be subject to the provisions and requirements of subdivision (q) of Section 74343.

(p) Except as provided herein, the provisions of Section 74343.1 shall apply to the attachés appointed pursuant to this section and Section 73952.

SEC. 10. Section 73959.2 of the Government Code is amended to read:

73959.2. By order entered in the minutes of this court, a majority of judges may appoint one commissioner who shall serve at the pleasure of the judges. The commissioner shall receive a biweekly salary equal to, as determined by local rule of court, between 50 percent and 75 percent of a judge of a municipal court. The comparable court classification to commissioner for the purposes of privileges and benefits shall be deputy clerk IV in the North County Municipal Court. With the approval of the judges of the court, the commissioner may be reimbursed for any payment he or she makes for his or her annual State Bar of California membership fee.

SEC. 11. Section 74343 of the Government Code is amended to read:

74343. The court administrator may appoint:

(a) One assistant court administrator, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the court administrator in the event that the court administrator is absent or unavailable for any reason and who shall receive a biweekly salary at a rate 44 percent higher than that specified for the position of chief clerk.

(b) Five deputy clerks each of whom shall be chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk.

(c) Five deputy clerks each of whom shall be assistant chief clerks and who shall receive a biweekly salary at a rate 10 percent higher than that specified for supervising deputy clerk.

(d) Five supervising deputy clerks each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Forty-seven deputy clerks IV, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of superior court clerks in the classified service in the County of San Diego.

(f) One deputy clerk data entry supervisor who shall receive a biweekly salary at a rate equal to that specified for the classification of data entry supervisor in the classified service in the County of San Diego. Each vacancy occurring in this class shall cause a corresponding reduction in the number of deputy clerk data entry supervisors authorized; provided, however, that each of such vacancies shall increase by one, the number of positions designated as deputy clerk III.

(g) One hundred seventy-two deputy clerks III, II or I, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate 16 percent below that specified for a deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of the County of San Diego. Appointments to the deputy clerk I classification may be at any step within the salary range at the discretion of the court administrator.

(h) Twelve deputy clerk data entry operators who shall receive a biweekly salary at a rate equal to that specified for the classification data entry operators in the classified service in the County of San Diego. Each vacancy occurring in this class, if specified by the court administrator, shall cause a corresponding reduction in the number of deputy clerk data entry operators authorized; provided, however, that each of such vacancies so specified shall increase by one, the number of positions designated as deputy clerk II.

(i) Four deputy clerk interpreters, each of whom shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service in the County of San Diego.

(k) One deputy clerk administrative secretary III, II or I, as the case may be. A deputy clerk administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service in the County of San Diego. A deputy clerk administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service in the County of San Diego. A deputy clerk administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of the County of San Diego.

(*l*) One deputy clerk, chief administrative services or administrative assistant III as the case may be. A deputy clerk, chief-administrative services shall receive a biweekly salary at a rate equal to that specified for the classification of chief-administrative services in the classified service in the County of San Diego. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service in the County of San Diego.

(m) One deputy clerk-administrative assistant III, II or I as the case may be. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service in the County of San Diego. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service in the County of San Diego. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service in the County of San Diego.

(n) Any person occupying a position specified in subdivision (g) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(o) Any person specified in subdivision (g) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate a CRT machine; or to operate word processing equipment; or who is assigned to transcribe from a machine, shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(p) Twenty-six clerks assigned to positions that the court administrator has designated as requiring specialized skills and training, while serving in such capacities as a deputy clerk IV or below, shall receive a biweekly salary 5 percent higher than that which such deputy clerks were receiving prior to such assignment. This premium shall apply to time worked and not apply towards paid time off or to terminal pay. The court administrator shall promulgate specific job-related criteria to measure such specialized skills and training as they relate to work assignments as a courtroom clerk or as a supervisor, and must provide all affected parties with such criteria within one month after the commencement of the period of eligibility.

(q) Up to 10 deputy clerk-court workers. The class of deputy clerk-court worker provides for temporary appointments to positions for which no specific classifications have been established pending a review and evaluation of the duties of such positions by the court administrator, and the establishment of specific classifications. The rate of pay for each individual employed in this class shall be within the designated range at a rate determined by the court administrator. In all cases, the application of the rules contained in this article as they relate to appointments to deputy clerk-court

worker shall be governed by the application of this article as it applies to the duties of the class that is pending establishment. Appointments shall be temporary and shall not exceed 18 months. The salary range for persons employed pursuant to this section shall be three hundred ninety-seven dollars and sixty cents ($397.60) to one thousand five hundred eight dollars and eighty cents ($1,508.80) biweekly, or four dollars and ninety-seven cents ($4.97) to eighteen dollars and eighty-six cents ($18.86) hourly. Employee benefits, if applicable, shall be equal to those granted to the class in the classified service of San Diego County to which the pending classification will be tied for benefit purposes. While deputy clerk-court workers will not be eligible for automatic step increases provided in Section 74343.1, paid service as a deputy clerk-court worker may be counted toward step increases in the employee's permanent position which immediately follows the deputy clerk-court worker position.

(r) One deputy clerk-senior systems analyst, associate systems analyst, or assistant systems analyst as the case may be. A deputy clerk-senior systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of senior systems analyst in the classified service of the County of San Diego. A deputy clerk-associate systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of associate systems analyst in the classified service of the County of San Diego. A deputy clerk-assistant systems analyst shall receive a biweekly salary at a rate equal to that specified for the classification of assistant systems analyst in the classified service of the County of San Diego.

(s) One deputy clerk-printer who shall receive a biweekly salary at a rate equal to that specified for the classification of publications supervisor in the classified service of the County of San Diego.

(t) Any person specified in subdivision (k) shall be eligible for the additional compensation provided under subdivision (o) if such additional compensation is authorized for the comparable county classification specified in subdivision (f) of Section 74343.1.

SEC. 12. Section 74343.4 of the Government Code is amended to read:

74343.4. (a) The traffic referee shall receive a salary equal to 60 percent of the salary of a judge of the municipal court. He shall, after each year of service, receive an increase of 5 percent of the salary of a judge of the municipal court but in no event shall he receive more than 65 percent of the salary of a judge of the municipal court.

(b) There shall be five commissioners who shall hold office at the pleasure of the judges . A commissioner shall receive a salary equal to 75 percent of the salary of a judge of the municipal court.

(c) A majority of judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits for the commissioners.

(d) With the approval of the judges of the court and the board of supervisors, each traffic referee and commissioner may be reimbursed for any payment he or she makes for his or her annual

State Bar of California membership fee.

SEC. 13. Section 74361 of the Government Code is amended to read:

74361. There shall be one marshal for the superior and all municipal courts established in judicial districts in San Diego County who shall be appointed pursuant to this article. In no event shall the compensation of the marshal be less than 20 percent higher than that specified for the position of assistant marshal. Unless entitled to a higher range under the provisions of subdivision (c) of Section 74350, appointment to the position of marshal shall be made at the C step.

SEC. 14. Section 74364 of the Government Code is amended to read:

74364. The marshal may make the following appointments each of whom shall receive the biweekly compensation as specified in the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel, which schedule is incorporated herein by reference:

(a) One assistant marshal. The compensation of the assistant marshal shall be 20 percent higher than that specified for the position of captain.

(b) Four captains.

(c) Four lieutenants.

(d) Seventeen sergeants.

(e) One hundred fifty deputy marshals; provided, however, that each vacancy occurring in this class shall not be filled and shall cause a corresponding reduction in the number of deputy marshal positions authorized until the number of deputy marshal positions authorized is reduced to 125; provided, however, that each of such vacancies shall increase by one a position designated as court service officer under subdivision (p) of this section.

Any deputy marshal who may be assigned by the marshal to one of seven positions designated as lead deputy, shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by the deputy.

The marshal may, at his discretion, replace a deputy marshal position by accepting a lateral transfer from another California peace officer agency. The transferee must be actively employed in a position enumerated in Section 830.1 or 830.2 of the Penal Code prior to transfer.

(f) One administrative secretary II. Each vacancy occurring in this position shall cause a corresponding reduction in the number of administrative secretaries II hereby authorized; provided, however, that each of such vacancies shall increase by one a position designated as senior typist.

(g) One chief, administrative services or administrative assistant III.

(h) Eighteen intermediate typists.

(i) Five senior typists.

(j) Thirty deputy marshal-cadets. Notwithstanding any other

provisions of this article, in no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. At the time an incumbent in the position of deputy marshal-cadet attains the age of 21 he or she may be appointed by the marshal to a position of deputy marshal or court service officer, provided such a position is open, without further qualification or examination. A deputy marshal-cadet shall receive 65 percent of the uniform allowance prescribed for deputy marshals, under the same conditions prescribed for deputy marshals. In the event that a deputy marshal-cadet is appointed to the position of deputy marshal or court service officer, he or she shall receive the amount of reimbursement of the cost of required uniforms and equipment prescribed for a newly hired deputy marshal or court service officer, less any reimbursement received by him or her for the cost of required deputy marshal-cadet uniforms and equipment.

(k) One supervising clerk.

(*l*) One junior typist. Each vacancy occurring in this position shall cause a corresponding reduction in the number of junior typists hereby authorized; provided, however, that such vacancy shall increase by one, a position designated as intermediate typist under subdivision (h) of this section.

(m) Six legal procedures clerks III.

(n) Twenty-four legal procedures clerks II or I.

(o) Every person specified in subdivision (f), (h), (i), (j), (k), (*l*), (m), or (n) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in Section 74374. Every person specified in subdivision (f), (h), (i), (j) (*l*), (m), or (n) who is regularly assigned and certified by the marshal as working more than 50 percent of his or her time, or who is assigned more than 40 hours in any one pay period to operate a CRT machine, or to operate word processing equipment; or who is assigned to transcribe from a machine shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment and word processing equipment operation in the salary ordinance of the County of San Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(p) Fifty court service officers. In no event shall a court service officer's salary be less than 75 percent of a deputy marshal at the corresponding pay step. A court service officer shall receive 75 percent of the uniform allowance prescribed for a deputy marshal, under the same conditions prescribed for deputy marshals. Notwithstanding the provisions of subdivision (e), at such time as the total number of deputy marshals has reached 130 as a result of the operation of subdivision (e), the marshal may appoint a court service officer to a position of deputy marshal without further qualification

or examination; provided, however, that not more than three such appointments shall be made until the number of deputy marshal positions authorized is reduced to 125. In the event that a court service officer is appointed to the position of deputy marshal, he or she shall receive the amount of reimbursement prescribed for a newly hired deputy marshal, less any reimbursement received by him or her for the cost of required court service officer uniforms and equipment. Court service officers shall be peace officers pursuant to Section 830.4 of the Penal Code. Notwithstanding any other provision of law, court services officers shall be general members of the County Employees Retirement System.

(q) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary, administrative-personnel secretary, or bookkeeping machine operator, shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified in such person's designated subdivision.

(r) Two principal clerks.

(s) Two communications dispatchers.

(t) Two administrative assistants III, II, I or trainee.

(u) Notwithstanding any other provision of this article, when an employee provided for in this article is eligible for increased compensation as a result of possessing a peace officer standards and training certificate, such increased compensation shall be the biweekly rate specified in the salary ordinance of the County of San Diego for comparable classifications in the classified civil service of the County of San Diego.

SEC. 15. Section 74743 of the Government Code is amended to read:

74743. The court administrator may appoint with the approval of the judges:

(a) One assistant court administrator. The assistant court administrator shall serve as the assistant clerk of the court and shall receive a biweekly salary at a rate 17 percent below that specified for assistant court administrator of the San Diego Judicial District.

(b) One deputy clerk-administrative assistant I, II or III, as the case may be. A deputy clerk-administrative assistant I shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant I in the classified service of San Diego County. A deputy clerk-administrative assistant II shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant II in the classified service of San Diego County. A deputy clerk-administrative assistant III shall receive a biweekly salary at a rate equal to that specified for the classification of administrative assistant III in the classified service of San Diego County.

(c) One deputy clerk who shall be a chief clerk and who shall receive a biweekly salary at a rate 10 percent higher than that specified for assistant chief clerk in the San Diego Judicial District.

(d) Four supervising deputy clerks each of whom shall receive a biweekly salary at a rate 11 percent higher than that specified for deputy clerk IV.

(e) Eleven deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(f) Thirty-nine deputy clerks III, II or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate 17 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate 16 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the court administrator, appointments to the deputy clerk I classification may be at any step within the salary range.

(g) Three deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County.

(h) One deputy clerk-administrative secretary IV who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County.

(i) One deputy clerk-administrative secretary III, II or I, as the case may be. A deputy clerk-administrative secretary III shall receive a biweekly salary at the rate specified for administrative secretary III in the classified service of San Diego County. A deputy clerk-administrative secretary II shall receive a biweekly salary at the rate specified for administrative secretary II in the classified service of San Diego County. A deputy clerk administrative secretary I shall receive a biweekly salary at the rate specified for administrative secretary I in the classified service of San Diego County.

(j) Two deputy clerk interpreters who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(k) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the court administrator shall be paid additional compensation at the biweekly rate determined by the court administrator as specified for bilingual ability in the salary ordinance of the County of San Diego.

(*l*) Any person specified in subdivision (f) who is regularly assigned and certified by the court administrator as working more than 50 percent of his or her time or who is assigned more than 40 hours in any one pay period to operate word processing equipment, or a CRT machine; or who is assigned to transcribe from a machine, shall be paid additional compensation at the biweekly rate specified for CRT machine, transcribing equipment, and word processing equipment operation in the salary ordinance of the County of San

Diego. This additional compensation shall be in addition to the salary prescribed for his or her class for all hours worked. For purposes of terminal pay, this premium shall not be computed on the employee's base wage rate.

(m) Not to exceed 10 deputy clerk-court workers may be appointed by the court administrator. Such appointments shall be subject to the provisions and requirements of subdivision (q) of Section 74343.

(n) Except as provided herein, the provisions of Section 74343.1 shall apply to the attachés appointed pursuant to this section and Section 74742.

(o) Any person specified in subdivision (i) shall be eligible for the additional compensation provided under subdivision (*l*) if such additional compensation is authorized for the comparable county classification specified in subdivision (f) of Section 74343.1.

SEC. 16. 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 1250

An act to amend Sections 65361 and 65585 of the Government Code, and to amend Section 50189 of the Health and Safety Code, relating to planning and housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 65361 of the Government Code is amended to read:

65361. (a) Except as provided in subdivision (b), no mandatory element of a general plan shall be amended more frequently than four times during any calendar year, which amendment or amendments may occur at any time as determined by the legislative body.

(b) This section does not apply to amendment of any general plan element requested and necessary for a single development of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. The specified percentage of low- or moderate-income housing may be developed on the same site as the other residential units proposed for

development, or on another site or sites encompassed by the general plan, in which case the combined total number of residential units shall be considered a single development proposal.

(c) This section does not apply to the adoption of any element to the general plan or to the amendment of the general plan, or an element thereof, in order to comply with a court decision pursuant to Article 14 (commencing with Section 65750).

SEC. 2. Section 65585 of the Government Code is amended to read:

65585. (a) Each local government shall consider the guidelines adopted by the department pursuant to Section 50459 of the Health and Safety Code in the preparation and amendment of its housing element pursuant to this article. Those guidelines shall be advisory to each local government in order to assist it in the preparation of its housing element.

(b) At least 90 days prior to adoption of the housing element pursuant to this article and Section 65357, or at least 45 days prior to the adoption of an amendment to this element, the planning agency of a local government shall submit a draft of the element or amendment to the department. The department shall review drafts submitted to it and report its findings to the planning agency within 90 days of receipt of the draft in the case of adoption of the housing element pursuant to this article, or within 45 days of receipt of the draft in the case of an amendment. The legislative body shall consider the department's findings prior to final adoption of the housing element or amendment unless the department's findings are not available within the above prescribed time limits. If the department's findings are not available within those prescribed time limits, the legislative body may take the department's findings into consideration at the time it considers future amendments to the housing element.

(c) Each local government shall provide the department with a copy of its adopted housing element or amendments. The department may review adopted housing elements or amendments and report its findings.

(d) Except as provided in Section 65586, any and all findings made by the department pursuant to subdivisions (b) and (c) shall be advisory to the local government.

SEC. 3. Section 50189 of the Health and Safety Code is amended to read:

50189. One-third of the annual state ceiling shall be reserved for the entire calendar year for entitlement allocations to local agencies pursuant to subdivision (a). An additional one-third of the annual state ceiling shall be reserved until April 1 of each calendar year for supplementary allocations to local agencies pursuant to paragraphs (1) and (2) of subdivision (b). The maximum allocation of qualified mortgage bonds to any single local agency in a calendar year shall be the sum of the amounts determined pursuant to subdivisions (a) and (b), but not to exceed two hundred fifty million dollars

($250,000,000). In no case, may a local agency be granted an approval of an entitlement or supplementary allocation which exceeds one hundred fifty million ($150,000,000) at any one time. However, nothing shall preclude the local agency from requesting, after expiration of any previously granted allocation, a new allocation which together with previously sold allocations shall not exceed two hundred fifty million dollars ($250,000,000) in a calendar year.

In no case, may a local agency file a request for an allocation for a particular issue if a previous request for an allocation for such issue is then pending before the committee or if a previously approved allocation for such issue is not yet sold or expired.

(a) The entitlement allocation for a local agency in any calendar year shall be the greatest of one of the following:

(1) The local bond limit times the ratio of the population of the territory of such local agency for the prior calendar year to the population of the state for the prior calendar year, but not to exceed sixty million dollars ($60,000,000).

(2) The local bond limit times the ratio of the amount of growth in population of the territory of the local agency from the year 1975 to the year 1980 to the amount of growth in population of the state over the same period, but not to exceed sixty million dollars ($60,000,000).

(3) The local bond limit times the housing need of the local agency, not to exceed sixty million dollars ($60,000,000).

(4) Twenty million dollars ($20,000,000).

For purposes of this subdivision only, the population of the territory of a local agency for any given calendar year shall be deemed to be the Department of Finance's population estimate for that territory and year as of the effective date of this chapter and as subsequently revised.

The housing need of the local agency shall be the ratio of the number of households within the territory of the local agency paying more than 35 percent of their income for rent to the number of households in the state paying more than 35 percent of their income for rent, according to the most recent available census.

(b) In addition to an entitlement allocation under subdivision (a), a local agency shall be eligible for a supplementary allocation of qualified mortgage bonds by filing a notice of intent pursuant to subdivision (b) of Section 50191 prior to April 1 of the calendar year, if the supplementary allocation of qualified mortgage bonds is restricted, by reason of provisions in the resolution or indenture authorizing the issuance of such qualified mortgage bonds or by reason of the statute under which such qualified mortgage bonds are issued, for use exclusively to provide mortgages to persons and families whose incomes do not exceed:

(1) One hundred twenty percent of the median household income in the case of financing for improving a residence or for residences where the purchaser will be the first occupant. Upon the resale of a home for which financing was originally provided under

this paragraph, the maximum income of persons and families shall also be 120 percent of the median household income.

(2) The median household income where the purchaser will not be the first occupant. However, the issuer shall assure that no less than half the funds allocated for financing where the purchaser will not be the first occupant shall be for households whose income does not exceed 80 percent of such median household income; provided, that the legislative body of the issuer may, by resolution, increase this income limitation to 90 percent of the median household income if the legislative body finds that there are insufficient numbers of creditworthy persons whose income does not exceed 80 percent of the median household income. Such a resolution shall be final and conclusive as to the findings required by this paragraph.

Supplementary allocations requested after April 1, may be for any purpose lawful under the federal act and state law. The committee shall not provide a supplementary allocation not restricted for use pursuant to paragraphs (1) and (2) of this subdivision until the committee has acted upon any pending requests for supplementary allocations filed prior to April 1 of each calendar year which are so restricted. However, after September 1, 1983, if the committee determines that the amount reserved for supplementary allocations shall not be used by the end of that year, the committee, in its discretion, may allocate sums reserved for supplementary allocations for any purpose lawful under the federal act and state law; provided, however, that the committee shall, in the order in which the applications were received, make every effort to allocate such sums to local agencies for entitlement and supplementary allocations in proportion to the amounts requested by the local agency in its application for entitlement and supplementary allocations.

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 use the state's bond allocation under the Federal Mortgage Subsidy Bond Tax Act and thereby make housing available to the people of the state, it is necessary that this act take effect immediately. However, Sections 1 and 2 of this act shall become operative on January 1, 1984, and Section 3 shall become operative on the effective date of this act.

CHAPTER 1251

An act to amend Sections 19549.1, 19617, 19617.5, and 19617.7 of, and to add Section 19617.8 to, the Business and Professions Code, and to amend Section 4141 of the Food and Agricultural Code, relating to horseracing.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 19549.1 of the Business and Professions Code is amended to read:

19549.1. Notwithstanding Sections 19533 and 19549 or any other provision of this chapter, the board may allocate horseracing days for mixed breed meetings at the California Exposition and State Fair and at district agricultural association racing facilities in the northern zone pursuant to Section 4141 of the Food and Agricultural Code, except that days may not be allocated for any meeting between July 1 and October 31 and that days may not be allocated for a mixed breed meeting during the month of June at the California Exposition and State Fair if a standardbred meeting is being conducted at that facility during the month of June. The mixed breed meetings shall be conducted by a person other than the California Exposition and State Fair or the district agricultural association and shall be subject to Section 19550. The mixed breed meetings shall encourage the racing of emerging breeds of horses.

SEC. 2. Section 19617 of the Business and Professions Code is amended to read:

19617. (a) Any association conducting a thoroughbred racing meeting shall at the end of the meeting deposit 0.34 percent of the total amount handled in daily conventional and exotic parimutuel pools with the official registering agency of California-bred thoroughbred racehorses as designated by the board.

(b) The official registering agency shall distribute the funds pursuant to Section 19567 to the breeders of California-bred thoroughbred horses becoming entitled thereto at the thoroughbred racing meeting, except that a breeder of a thoroughbred horse winning or placing second or third in a race in this state shall be paid a sum equal to 10 percent of the respective share of the purse, exclusive of nomination, entry, or starting fees. A breeder of a California-bred thoroughbred winning a graded stakes race outside the State of California shall be paid a sum equal to 10 percent of the winner's share of the purse, with a maximum award of seven thousand five hundred dollars ($7,500) for any one race.

(c) Following the close of each meeting the official registering agency shall pay an owners' premium award of up to 5 percent of the winner's share of the purse, exclusive of nomination, entry, or starting fees, to the owner of a California-bred thoroughbred horse winning a race, other than a claiming race, at a thoroughbred meeting in this state, or a claiming race at thoroughbred racing meetings in the central and southern zones when the total purse exceeds the daily average purse distributed at that meeting during the prior year, or a claiming race at thoroughbred racing meetings in the northern zone when the total purse exceeds 150 percent of the

daily average purse distributed at that meeting during the prior year. This payment shall be supplemented by the funds paid pursuant to subdivision (b) of Section 19611.5, except that the combined owner's premium award shall not exceed 20 percent for any one race.

(d) At the end of the fiscal year, the balance of the fund shall be distributed by the official registering agency as stallion awards. Stallion awards shall be made on a prorated percentage based on the winner's share of the purse, exclusive of nomination, entry, or starting fees, to the owner of a sire of California-bred thoroughbred horses which win one or more races other than claiming races at a thoroughbred racing meeting, or a claiming race at thoroughbred racing meetings in the central or southern zone when the total purse exceeds the daily average purse distributed at that meeting during the prior year, or a claiming race at thoroughbred racing meetings in the northern zone when the total purse exceeds 150 percent of the daily average purse distributed at that meeting during the prior year, or any thoroughbred stakes race run at the California Exposition and State Fair, or at any county or district agricultural association fair, and, in the case of California-bred thoroughbreds winning a graded stakes race outside the State of California, a prorated award shall be made to the owner of the sire, with a maximum award of seven thousand five hundred dollars ($7,500) for any one race. The awards shall not be made to the owner of a stallion which has been out of the state for breeding purposes during the calendar year.

(e) The maximum amount payable to the owner of a California stallion eligible for stallion awards for any one race shall be 3 percent of the total stallion awards fund for the year during which that race was run.

(f) The official registering agency shall make a deduction for expenses not to exceed 5 percent of the total awards fund, with the deductions having to be approved by the board, which shall report annually to the Governor and Legislature with respect to the distributions.

(g) In the event there are insufficient funds to make all of the distributions in this section, there shall be no additional assessments made against any associations to fund the deficiencies.

SEC. 3. Section 19617.7 of the Business and Professions Code is amended to read:

19617.7. Any association conducting a quarter horse racing meeting, except for a mixed breed meeting or a fair meeting, shall deduct an additional 0.2 of 1 percent of the total amount handled in its daily conventional and exotic parimutuel pools for quarter horse races.

The board shall designate the officially recognized organization representing quarter horse horsemen to administer this section and to distribute amounts deducted under this section. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total amount deducted.

After deduction of the percentage for administrative expenses, the

amounts deducted under this section shall be distributed as follows:

(a) An amount equal to 10 percent of the second place share of the purse won by a California-bred quarter horse at any meeting held in the state, other than a fair or mixed breed meeting, shall be paid to the breeder of the animal.

(b) The amount remaining after the payments are made under subdivision (a) shall be used for the payment of quarter horse stallion awards as provided in this subdivision.

At the end of the calendar year, stallion awards shall be made on a prorated percentage based on the win and second place shares of the purse, exclusive of all purse money not derived from the parimutuel pools, to the owners of sires of quarter horses who have been officially placed first or second in one or more races other than maiden or claiming races at a quarter horse meeting, or in a nonmaiden claiming race at a quarter horse meeting in the central or southern zone when the total purse is equal to or exceeds 85 percent of the daily average purse distributed at that meeting during the prior year, or in a nonmaiden claiming race at a quarter horse meeting in the northern zone when the total purse is equal to or exceeds 115 percent of the daily average purse distributed at that meeting during the prior year, or in any quarter horse stakes race run at the California Exposition and State Fair, or at any county or district agricultural association fair or mixed meeting.

Stallion awards shall not be made to the owner of a sire which has been out of the state for breeding purposes during the calendar year.

Stallion awards shall not be made for any race run outside the State of California.

In the event there are insufficient funds to make all of the distributions in this section, there shall be no additional assessments made against any association to fund the deficiencies.

SEC. 4. Section 19617.5 of the Business and Professions Code is amended to read:

19617.5. (a) Any association conducting a quarter horse or harness racing meeting shall pay the sums required to be paid by Section 19567 out of the amounts deducted from the parimutuel pool for license fees, commissions, and purses in the same proportion as the distribution of the license fees, commissions, and purses.

(b) Notwithstanding subdivision (a), any association conducting a fair racing meeting other than a harness meeting or conducting a mixed breed meeting shall deduct an additional 0.34 of 1 percent of the total amount handled in its daily conventional and exotic parimutuel pools for all races for payment of breeder and stallion awards provided for in this chapter. Following the close of the meeting, the respective official registering agency or officially recognized horsemen's organization shall distribute the amounts so deducted as follows:

(1) With respect to thoroughbred races, the amounts deducted shall be paid as breeder awards, owners' premiums, and stallion awards as provided in Section 19617.

(2) With respect to quarter horse races, the amounts deducted shall be paid as breeder awards as provided in Section 19567 and the amount remaining shall be distributed as additional stallion awards as provided in Section 19617.7.

(3) With respect to Appaloosa and Arabian races, the amounts deducted shall be paid as breeder awards as provided in Section 19567 and the amount remaining shall be distributed as stallion awards as provided in Section 19617.8.

SEC. 5. Section 19617.8 is added to the Business and Professions Code, to read:

19617.8. The board shall designate the officially recognized organization representing Appaloosa and Arabian horsemen, respectively, to administer Section 19617.5 and this section and to distribute amounts deducted under Section 19617.5. The organization may, with the approval of the board, make a deduction for expenses not to exceed 5 percent of the total amount deducted.

After deduction of the expenses for administration the organization shall, within 30 days following the meeting where the amounts are deducted, distribute the funds pursuant to Section 19567 to the breeders of California-bred Appaloosa or Arabian horses entitled thereto at the meeting. The amount remaining after payments shall be paid at the end of the year on a prorated percentage basis to owners of sires of Appaloosa and Arabian horses who placed first in one or more races at a fair meeting or a mixed breed meeting.

Stallion awards shall not be made to the owner of a sire which has been out of the state for breeding purposes during the calendar year. Stallion awards may not be made for any race run outside the State of California.

In the event there are insufficient funds to make all of the distributions in this subdivision, there shall be no additional assessments made against any association to fund the deficiencies.

SEC. 6. Section 4141 of the Food and Agricultural Code is amended to read:

4141. (a) Notwithstanding the provisions of Section 4052, the California Exposition and State Fair or a district agricultural association in the northern zone, with the approval of both the Department of Food and Agriculture and the Department of General Services, may utilize its racing facilities for conducting horseracing meetings, with parimutuel wagering, on days other than the days on which general fair activities are conducted. The horseracing meetings shall include a program consisting of all breeds of horses.

(b) The association shall designate certain days of a meeting held pursuant to this section as charity days with the proceeds therefrom to be distributed in accordance with the provisions of Sections 19550 and 19556 of the Business and Professions Code.

(c) The association shall encourage the racing of the emerging breeds of horses.

CHAPTER 1252

An act to add and repeal Section 11580.26 of the Insurance Code, and to amend, repeal, and add Sections 16070 and 16072 of, to repeal and add Sections 16022 and 16023 of, and to add and repeal Article 2.5 (commencing with Section 17200) of Chapter 1 of Division 9 of, the Vehicle Code, relating to financial responsibility.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 11580.26 is added to the Insurance Code, to read:

11580.26. (a) Except where a named insured has agreed pursuant to Section 11580.2 to delete the coverages provided by that section, no policy of motor vehicle liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle, except where the policy provides insurance in the Republic of Mexico issued or delivered in this state by nonadmitted Mexican insurers, and except a policy insuring a commercial vehicle as defined in Section 260 of the Vehicle Code, shall be issued or delivered in this state to the owner or operator of a motor vehicle, or shall be issued or delivered by any insurer licensed in this state upon any motor vehicle then principally used or principally garaged in this state, unless a named insured has been offered the following coverage:

(1) Where the policy of motor vehicle liability insurance includes collision coverage as defined in subdivision (d) of Section 660, coverage which provides that the deductible amount, if any, to be paid by the named insured under the collision coverage shall be payable by the insurer in the event of collision involving a vehicle owned by the named insured and insured under the policy and an uninsured motor vehicle.

(2) Where the policy of motor vehicle liability insurance does not include collision coverage as defined in subdivision (d) of Section 660, coverage for property damage to the insured motor vehicle, but not including personal property contained therein, caused by the owner or operator of an uninsured motor vehicle. As used in this subdivision, "property damage" means payment not to exceed three thousand five hundred dollars ($3,500) for loss or damage to the insured motor vehicle resulting from collision, but does not include compensation for loss of use of the motor vehicle. As used in this subdivision, the term "insured motor vehicle" means the motor vehicle described in the underlying insurance policy of which the uninsured motorist property damage coverage or endorsement applies.

(b) Every payment by an insurer under either coverage provided

in paragraphs (1) and (2) of subdivision (a) shall be made only where the collision involves actual, direct physical contact between the insured and the uninsured motor vehicle and the owner or operator of the uninsured motor vehicle is identified or the uninsured motor vehicle is identified by its license number, provided that the insured or someone on his or her behalf shall have reported the accident within three business days to his or her insurer or their agent and, provided further, that it is also determined by the insured and insurer or, in the event of disagreement, by arbitration conducted by a single neutral arbitrator, that the insured is legally entitled to recover the amount of such payments for property damage from the owner or operator of the uninsured motor vehicle. No cause of action shall exist against either an insured or insurer from exercising the right to request arbitration of a claim under this section or Section 11580.2.

(c) Any named insured, prior to or subsequent to the issuance or renewal of a policy, may elect not to accept the type of coverage provided by this section. That election shall be binding upon every insured to whom the policy or endorsement provisions apply while the policy is in force and shall continue to be so binding, with respect to any continuation or renewal of the policy, or with respect to any other policy which extends, changes, supersedes, or replaces the policy issued to the named insured by the same insurer or with respect to reinstatement of the policy within 30 days of any lapse thereof. A policy shall be excluded from the application of this section if the only coverage, with respect to the use of any motor vehicle, is limited to the contingent liability arising out of the use of nonowned motor vehicles or if the automobile liability coverage is provided only on an excess or umbrella basis.

(d) An insurer paying a claim under any coverage required by this section shall be entitled to be subrogated to the rights of the insured to whom the claim was paid against any person legally liable for the injury or death to the extent that payment was made. Such action may be brought within three years from the date that payment was made pursuant to this section.

(e) As used in this section, the term "uninsured motor vehicle" means any motor vehicle with respect to the ownership, maintenance, or use of which there is no property damage liability insurance or bond applicable at the time of the accident, or there is applicable insurance or bond but the company writing the insurance or bond denies coverage thereunder or refuses to admit coverage thereunder, except conditionally or with reservation, or a motor vehicle used without the permission of the owner thereof if there is no property damage liability insurance or bond applicable at the time of the accident with respect to the owner or operator thereof. A motor vehicle which has at least the minimum property damage liability limits required pursuant to Section 16056 of the Vehicle Code shall not be held to be an uninsured motor vehicle even when such property damage liability limits are not sufficient to

compensate for all property damage caused by the owner or operator of the vehicle. As used in this section, the term "uninsured motor vehicle" shall not include a motor vehicle owned or operated by any insured or any resident of the named insured's household or self-insured within the meaning of the financial responsibility provisions of the state in which the motor vehicle is registered or which is owned by the United States of America, Canada, a state or political subdivision of any government, or an agency of any of the foregoing, or a land motor vehicle or trailer operated on rails or crawler treads or while located for use as a residence for premises and not as a vehicle, or a farm-type tractor or equipment designed for use principally off public roads, except while actually upon public roads. As used in this section, the term "uninsured motor vehicle" also means an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency. An insurer's solvency protection shall be applicable only to accidents occurring during a policy period in which its insured's motor vehicle coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one year of the accident. In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of the coverage, the insurer making the payment shall, to the extent thereof, be entitled to any proceeds which may be recoverable from the assets of the insolvent insurer through any settlement or judgment of the person against the insolvent insurer.

(f) The offer of coverage required by this section shall be made only for policies issued or renewed on or after July 1, 1984.

(g) 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 16022 of the Vehicle Code is repealed.

SEC. 3. Section 16022 is added to the Vehicle Code, to read:

16022. Every driver and owner of a motor vehicle involved in an accident described in Section 16000 who fails to prove the existence of financial responsibility as required by Section 16020 at the time of such accident, shall within 60 days after such accident, file with the department, and thereafter maintain for a period of three years, proof of such financial responsibility.

If the driver, at the time of an accident, was driving, with the permission of his employer, a vehicle owned, operated, or leased by that employer, the proof of financial responsibility requirements and the suspension provisions of this chapter shall apply to such employer and shall not apply to such driver.

If such proof is established by the filing of evidence that the driver or owner procured an automobile or motor vehicle liability policy or bond, and coverage under such policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

This section shall become operative on January 1, 1989.

SEC. 4. Section 16023 of the Vehicle Code is repealed.

SEC. 5. Section 16023 is added to the Vehicle Code, to read:

16023. Any person who, after having filed proof of financial responsibility pursuant to Section 16022, subsequently drives any motor vehicle on a highway, and any owner of such a vehicle who, after having filed proof of financial responsibility pursuant to Section 16022, subsequently either drives the motor vehicle or who permits the driving of such vehicle on the highway, without having in full force and effect a form of financial responsibility described in Section 16021, is guilty of an infraction and shall be punished for each such offense by a fine not exceeding one hundred dollars ($100), and provided that the court may, in its discretion, impose a condition of probation by requiring the person to file proof in accordance with the provisions of Article 3 (commencing with Section 16050) of this chapter for the duration of the term of probation.

This section shall become operative on January 1, 1989.

SEC. 6. Section 16070 of the Vehicle Code is amended to read:

16070. (a) Whenever a driver involved in an accident described in Section 16000 fails to prove the existence of financial responsibility as required by Section 16020 at the time of the accident, the department shall suspend the privilege of the driver or owner to drive a motor vehicle, including the driving privilege of a nonresident in this state.

(b) The suspension provisions of this section shall not apply if the accident is not reported to the department within 60 days following the date of the accident.

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. 7. Section 16070 is added to the Vehicle Code, to read:

16070. (a) Whenever a driver involved in an accident described in Section 16000 has failed to establish proof of financial responsibility pursuant to Section 16022, the department shall, if the accident has resulted in damage to the property of any one person in excess of five hundred dollars ($500) or in bodily injury or in the death of any person, suspend the privilege of the driver or owner to drive a motor vehicle, including the driving privilege of a nonresident in this state. The suspension shall become effective not earlier than the 76th day after receipt of the first accident report described in Section 16000 by the department.

(b) The suspension provisions of this section shall not apply whenever evidence that the accident has resulted in damage to the property of any one person in excess of five hundred dollars ($500) or in bodily injury or in the death of any person is not submitted to the department within 60 days following the date of the accident.

(c) This section shall become operative on January 1, 1989.

SEC. 8. 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 one year has elapsed from the date of the accident and until the person files proof of financial responsibility, provided that the suspension shall be reinstated if the person fails to maintain such proof of financial responsibility for three years. If such proof is established by the filing of evidence that the person procured an automobile or motor vehicle liability policy or bond, and coverage under such policy or bond terminates, the insurer or surety shall inform the department of the date of termination.

(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. 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).

(c) 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. Section 16072 is added to the Vehicle Code, 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 thereafter 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).

(c) This section shall become operative on January 1, 1989.

SEC. 10. Article 2.5 (commencing with Section 17200) is added to Chapter 1 of Division 9 of the Vehicle Code, to read:

Article 2.5. Uninsured Owners

17200. Where an uninsured owner or operator has obtained a judgment against or agreed to a settlement with the owner or operator of an insured motor vehicle based on the negligence of the insured owner or operator, the amount of the judgment or settlement payable by the insured or his or her insurer shall be reduced by the amount paid or payable to the insured owner or operator or occupants of the insured motor vehicles or their heirs or legal representatives from coverage provided by an uninsured motorist endorsement where the claim of the insured, the owner, or occupants of the insured motor vehicle and the uninsured motorist arise out of the same accident. If the insured or his or her insurer becomes entitled to a reduction, the reduction shall not exceed the amount of the settlement or judgment awarded the uninsured owner or operator.

17201. The payment of any settlement with an uninsured owner or operator or the payment of any final judgment for damages obtained by an uninsured owner or operator in a civil action against an insured owner or operator shall not be made until the claims of the owner, the operator, or the occupants of the insured motor vehicle, if any, or their heirs or legal representatives for benefits under the uninsured motorist endorsement are settled by the insurer and the claimants under the uninsured motorist endorsement or are determined by the arbitrator in arbitration proceedings conducted pursuant to Section 11580.2 of the Insurance Code.

17202. This article is not intended to affect the rights granted pursuant to subdivision (g) of Section 11580.2 of the Insurance Code.

17203. This article 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.

CHAPTER 1253

An act to amend Section 1141.32 of the Code of Civil Procedure, to amend Sections 69948, 70059.8, 70142.12, 73666, 73668, 73674, 73674.1, 73676, 73677, 74701.5, 74843, 74844, 74845, 74847, and 74851 of, and to add Sections 26608.3, 70129.5, 71603.4, 71603.5, and 74845.1 to, and Article 40 (commencing with Section 74980) to Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 1141.32 of the Code of Civil Procedure is amended to read:

1141.32. This chapter shall remain in effect only until January 1, 1986, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 2. Section 26608.3 is added to the Government Code, to read:

26608.3. (a) In Shasta County, the board of supervisors by ordinance or resolution may transfer from the sheriff to the marshal of the Redding Municipal Court the duty to serve all writs, notices and other process issued by any state court, or other competent authority.

(b) After adoption of the ordinance or resolution pursuant to subdivision (a), and notwithstanding any other provision of law, in Shasta County the marshal shall have the duty to serve all writs, notices and other process issued by any state court or other competent authority, and the sheriff shall be relieved of any obligation imposed by Section 26608 and any liability imposed by Section 26663 or 26664.

(c) Nothing in this section shall be construed as limiting the responsibility or authority of a private person or registered process server from serving process and notices in the manner prescribed by law, nor shall it limit the authority of the sheriff or any other peace officer to serve warrants of arrest or other process specifically directed by a court to the sheriff or any other peace officer.

SEC. 3. Section 69948 of the Government Code, as amended by Chapter 363 of the Statutes of 1983, 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 eighty dollars ($80) a day, or any fractional part thereof.

(d) In Kings County, the fee for reporting testimony and proceedings in contested cases is eighty-five dollars ($85) a day, or any fractional part thereof.

(e) In Mariposa County, the fee for reporting testimony and proceedings in contested cases is ninety-five dollars ($95) 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; provided that the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(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.

(v) In Colusa County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

(w) In Shasta County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars ($75) per day, or any fractional part thereof.

SEC. 4. Section 70059.8 of the Government Code is amended to read:

70059.8. (a) Notwithstanding any other provision of law, including but not limited to Sections 70040, 70041, 70042 and 70045,

the following provisions shall be applicable to the official court reporters in Solano County.

(b) Regular official court reporters shall report all criminal and civil proceedings in their respective courts; all juvenile proceedings, other than those heard by referees or traffic officers when official reporters are unavailable; grand jury proceedings, coroner's inquests, and proceedings before the county board of equalization. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, public hearings and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(c) Each regular official court reporter shall be paid a salary according to the following schedule:

Range 1135	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly	908.00	953.60	1,001.60	1,052.00	1,104.80

(d) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(e) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1984, unless ratified by statute by the Legislature prior to that date.

(f) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 of this chapter, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(g) (1) A reporter's filing fee of sixteen dollars ($16) shall be paid in actions and proceedings as specified in Section 68090.5 in the Solano County Superior Court.

(2) In addition to any fee otherwise required in civil cases that last

longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

SEC. 5. Section 70129.5 is added to the Government Code, to read:

70129.5. (a) In Humboldt County, in addition to any fee otherwise required, in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(b) In Humboldt County, in addition to any fee otherwise required, in a civil case in which the court orders a daily transcript, necessitating the services of two phonographic reporters, the parties requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(c) All fees paid under this section shall be taxed as costs.

SEC. 6. Section 70142.12 of the Government Code is amended to read:

70142.12. (a) In Sonoma County, the judges of the superior court, by majority vote, may appoint a court commissioner. The superior court may provide that the commissioner, in addition to the powers and duties specified in Section 259 of the Code of Civil Procedure, shall perform the duties of a probate commissioner appointed pursuant to Section 69897 and, if appointed by the presiding judge of the juvenile court, shall perform the duties of a juvenile court referee as specified in Section 247 of the Welfare and Institutions Code.

(b) Any commissioner appointed pursuant to this section shall have been admitted to practice law in California for not less than five years, shall hold office at the pleasure of the superior court, and shall not engage in the private practice of law.

(c) The salary of the commissioner for all duties performed pursuant to this section shall be equal to 78 percent of the annual salary of a judge of a superior court. The commissioner shall be a member of the Sonoma County Retirement System and shall receive vacation, sick leave and fringe benefits identical to those provided Sonoma County administrative management employees.

SEC. 7. Section 71603.4 is added to the Government Code, to read:

71603.4. The Shasta County Board of Supervisors by ordinance or

resolution may designate the marshal of the Redding Judicial District as exofficio constable of one or more of the justice court judicial districts in Shasta County. The marshal and deputy marshals shall serve each justice court affected by such a designation without additional compensation.

SEC. 8. Section 71603.5 is added to the Government Code, to read:

71603.5. The Shasta County Board of Supervisors by ordinance or resolution may designate the county sheriff as exofficio constable of one or more of the justice court judicial districts in Shasta County. The sheriff and deputy sheriffs shall serve each justice court affected by such a designation without additional compensation.

SEC. 9. Section 73666 of the Government Code is amended to read:

73666. The monthly salaries for the following positions shall be according to, and shall be increased in accordance with, the following salary schedule:

Salary Schedule

	Step A	Step B	Step C	Step D	Step E
Clerk	1,961.43	2,061.74	2,167.18	2,278.10	2,394.50
Court clerk II	1,041.09	1,094.33	1,150.29	1,209.11	1,270.95
Court clerk I	905.39	951.70	1,000.37	1,051.52	1,105.30
Clerk typist III	946.96	995.39	1,046.29	1,099.80	1,156.04
Clerk typist II	884.33	887.51	932.90	980.61	1,030.75
Marshal					2,658.90
Chief deputy marshal	1,582.83	1,663.77	1,748.86	1,838.29	1,932.30
Deputy marshal	1,476.08	1,551.56	1,630.91	1,714.31	1,801.98
Marshal's clerk	905.39	951.70	1,000.37	1,051.52	1,105.30
Senior marshal's clerk	1,015.45	1,067.37	1,121.96	1,179.34	1,239.65

SEC. 10. Section 73668 of the Government Code is amended to read:

73668. (a) Official reporters shall be appointed by the judges of each municipal court district pursuant to the provisions of Section 72194 and shall serve during the pleasure of the judge to whom he is assigned. The number of reporters so appointed shall not exceed at any one time the number of judges provided by law for the court.

(b) A judge of the municipal court may appoint a pro tempore

official reporter to serve as the business of the court may require, when an official reporter is unavailable.

(c) The salaries of each regular official reporter and each pro tempore official reporter shall be as provided in Section 70127 of this code, except that such changes in compensation made pursuant to this section shall be on an interim basis and shall expire on January 1 of the second calendar year after the calendar year in which the change occurs, unless ratified by the Legislature.

(d) Fees.

(1) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(2) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

(3) All fees paid under this subdivision shall be taxed as costs.

SEC. 11. Section 73674 of the Government Code is amended to read:

73674. The clerk may appoint (a) one chief deputy; (b) one deputy clerk V; (c) four deputy clerks IV; (d) four deputy clerks III; (e) four municipal courtroom clerks; (f) one account clerk III; (g) 17 deputy clerks II, or deputy clerk I or clerical trainees as may be determined by the judges with the concurrence of the board of supervisors; (h) one (confidential) legal secretary; (i) three account clerks II or account clerks I. Each of these employees shall receive the salary specified in Section 73677 for this classification.

SEC. 12. Section 73674.1 of the Government Code is amended to read:

73674.1. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed upon him by law, each reporter shall render such assistance as may be required in any other court of the county to which he may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid a salary according to the following schedule:

Range 1135	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly	908.00	935.60	1,001.60	1,052.00	1,104.80

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1984, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided in Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) (1) A reporter's filing fee of sixteen dollars ($16) shall be paid in actions and proceedings as specified in Section 68090.5.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

SEC. 13. Section 73676 of the Government Code is amended to read:

73676. Wherever a reference to a salary range number is made in this article, the schedule found in the Personnel and Salary Resolution of the County of Solano shall apply. Any salary change resulting from an amendment of such schedule and listing shall remain effective only until January 1 of the second year following the calendar year in which such change is made.

Biweekly Salary Schedule

Salary Range	Step 1	Step 2	Step 3	Step 4	Step 5

481	384.80	404.00	424.00	445.60	468.00
520	416.00	436.80	458.40	481.60	505.60
526	420.80	441.60	464.00	487.20	511.20
573	458.40	481.60	505.60	531.20	557.60
612	489.60	514.40	540.00	567.20	595.20
637	509.60	535.20	561.60	589.60	619.20
676	540.80	568.00	596.80	626.40	657.60
710	568.00	596.80	626.40	657.60	690.40
730	584.00	613.60	644.00	676.00	709.60
737	589.60	619.20	650.40	683.20	717.60
769	615.20	645.60	677.60	711.20	746.40
849	679.20	712.80	748.80	786.40	825.60
906	724.80	760.80	799.20	839.20	880.80
954	763.20	801.60	841.60	884.00	928.00
971	776.80	816.00	856.80	900.00	944.80
1096	876.80	920.80	967.20	1,015.20-	1,065.60
1324	1,059.20	1,112.00	1,168.00	1,226.40	1,288.00
1350	1,080.00	1,134.40	1,191.20	1,250.40	1,312.80

SEC. 14. Section 73677 of the Government Code is amended to read:

73677. Persons employed in any of the positions authorized by this article shall be paid the salary assigned to the following ranges as set in the salary schedule followed in Section 73676.

Position	Range
(a) Clerical Trainee	481
(b) Deputy Clerk I	526
(c) Deputy Clerk II	612
(d) Deputy Clerk III	676
(e) Deputy Clerk IV	769
(f) Deputy Clerk V	849
(g) Chief Deputy Clerk	971
(h) (Confidential) Legal Secretary	710
(i) Account Clerk III	737
(j) Municipal Courtroom Clerk	730
(k) Clerk of the Municipal Court	1324
(*l*) Account Clerk II	637
(m) Account Clerk I	573

Each person employed on the effective date of this section in the office of the clerk, including the clerk, shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such prior service shall be deemed service in the new position, provided, however, that such credit shall be given only when the presiding judge of the court determines that the officer or employee is entitled to receive it. Officers and employees shall be appointed at the first step for the range assigned to their classification except if it is difficult to secure qualified personnel, or if a person of unusual qualifications

is appointed, the judge may appoint such person at the second step of the range assigned to that classification.

In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 73676, and, provided further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors may establish a salary at a rate not to exceed Step 5 of the salary range of the clerk of the municipal court that exists on the date of the appointment.

SEC. 15. Section 74701.5 of the Government Code is amended to read:

74701.5. The judges of the Sonoma County Municipal Court may, by majority vote, appoint a court commissioner who shall meet the qualifications and have the powers and duties specified in Sections 72190 and 72190.1 of this code, and Section 259 of the Code of Civil Procedure. Any commissioner so appointed shall also have the power and duties of a traffic referee, as provided in Article 9 (commencing with Section 72400) of Chapter 8 of Title 8. The salary of the commissioner for all duties performed pursuant to this section shall be equal to 78 percent of the annual salary of a judge of a municipal court. The commissioner shall be a member of the Sonoma County Retirement System and shall receive vacation, sick leave, and fringe benefits identical to those provided Sonoma County administrative management employees.

SEC. 16. Section 74843 of the Government Code is amended to read:

74843. The clerk may appoint (a) one chief deputy clerk; (b) one deputy clerk V; (c) three deputy clerks IV; (d) three municipal courtroom clerks; (e) one account clerk III; (f) four deputy clerks III; (g) one legal secretary; (h) eleven deputy clerks II, or deputy clerk I, or clerical trainee as shall be determined by the judges with the concurrence of the Board of Supervisors. Each of these employees shall receive the salary specified in Section 74847 for his or her classification.

SEC. 17. Section 74844 of the Government Code is amended to read:

74844. There shall be one marshal who shall be elected by the voters of the district and who shall receive a salary equivalent to Range 1350.

SEC. 18. Section 74845 of the Government Code is amended to read:

74845. The marshal may appoint (a) one account clerk III; (b) four deputy marshals II, or deputy marshal I as shall be determined by the judges with the concurrence of the board of supervisors; provided, however, that two additional deputy marshals may be appointed upon the determination of the judges with the

concurrence of the board of supervisors; (c) one typist clerk II or I or clerical trainee; (d) one sergeant marshal; (e) one account clerk II or I or clerical trainee. Each of these employees shall receive the salary specified in Section 74847 for his or her classification.

SEC. 19. Section 74845.1 is added to the Government Code, to read:

74845.1. The marshal may appoint as many deputy marshal-keepers as may be required by law. They shall be paid only for their actual services as keepers of property taken under legal process and shall be paid out of the funds deposited by the parties to the action in which such services are rendered. Deputies serving under the provisions of this subdivision are not salaried employees of the judicial district for the purposes of obtaining civil service status or any other benefits of this article.

SEC. 20. Section 74847 of the Government Code is amended to read:

74847. Persons employed in any of the positions authorized by this article except the marshal shall be paid the salary assigned to the following ranges as set forth in the salary schedule contained in Section 74846:

Position	Range
(a) Clerical Trainee	481
(b) Deputy Clerk I	526
(c) Clerk II	573
(d) Account Clerk I	573
(e) Deputy Clerk II	612
(f) Account Clerk II	637
(g) (Confidential) Legal Secretary	710
(h) Deputy Clerk III	676
(i) Typist Clerk II	573
(j) Account Clerk III	737
(k) Municipal Courtroom Clerk	730
(*l*) Deputy Clerk IV	769
(m) Deputy Clerk V	849
(n) Deputy Marshal I	906
(o) Deputy Marshal II	954
(p) Chief Deputy Clerk	971
(q) Sergeant Marshal	1096
(r) Clerk of the Municipal court	1324
(s) Typist Clerk I	520
(t) Marshal	1350

Each person employed in the office of the clerk and the office of the marshal, including the clerk and the marshal, on the effective date of the amendments to this section enacted at the 1967 Regular Session of the Legislature shall receive credit for prior continuous service in office including service in departments superseded upon the establishment of the municipal court, and such prior service shall

be deemed service in the new position, provided, however, that such credit shall be given only when the judges of the court determine that the officer or employee is entitled to receive it. The clerk, deputy clerks, and the attachés of the court shall be appointed at the first step for the range assigned to their classification, except if it is difficult to secure qualified personnel, or if a person of unusual qualifications is hired, the judges may appoint such person at the second step of the range assigned to that classification. In the case of the appointment of the clerk of the municipal court, the judges shall be authorized, if they deem it necessary, to appoint the clerk at a higher step, not to exceed the fifth step of the range assigned to that classification as set forth in Section 74846, and, provided, further, that if the judges are unable to secure a qualified person to fulfill the position of clerk of the municipal court for a salary as hereinabove provided, then the judges with the concurrence of the board of supervisors and the county administrator may establish a salary at a rate not to exceed Step 5 of the salary range of the clerk of the municipal court that exists on the date of the appointment.

SEC. 21. Section 74851 of the Government Code is amended to read:

74851. (a) Regular official court reporters shall report all criminal and civil proceedings in their respective courts. When not engaged in the performance of other duties imposed by law, each reporter shall render such assistance as may be required in any other court of the county to which he or she may be assigned, and perform such other verbatim reporting services as may be required such as, but not limited to, board of equalization hearings, public hearings, and depositions. During hours in which the court is open for the transaction of judicial business, official reporters shall devote full time to the performance of regular duties and shall not engage in any other employment in their professional capacity.

(b) Each regular official court reporter shall be paid a salary according to the following schedule:

Range 1135	Step 1	Step 2	Step 3	Step 4	Step 5
Biweekly	908.00	953.60	1,001.60	1,052.00	1,104.80

(c) For all transcripts incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of Chapter 5 of this title. The initial hiring rate for each position shall be step 1, provided that the judges may appoint any such reporter at a higher initial step if, in the opinion of the majority of judges, an individual to be appointed has such experience and qualifications as to entitle him to such higher initial step.

(d) A regular official court reporter shall serve at the pleasure of the appointing judge, but shall be entitled to the same benefits and privileges respecting longevity, service credits, cost of living or other general pay increases, retirement, vacation, sick leave and group insurance which are provided other employees of the county. Court

reporters shall be entitled to any increases provided other employees of the county respecting longevity, service credits, cost of living or general pay increases, retirement, vacation, sick leave and group insurance, but such increases shall be on an interim basis and remain in effect only until January 1, 1984, unless ratified by statute by the Legislature prior to that date.

(e) Judges of the court may appoint as many official reporters pro tempore as the business of the court requires. They shall be unsalaried but shall receive the fees provided by Article 9 (commencing with Section 69941) of Chapter 5 of this title, which fees, upon order of the court, shall be a proper charge against the general fund of the county.

(f) (1) A reporter's filing fee of sixteen dollars ($16) shall be paid in actions and proceedings as specified in Section 68090.5.

(2) In addition to any fee otherwise required in civil cases that last longer than five judicial days, a fee per day equal to the per diem rate for official reporters pro tempore shall be charged to the parties for the services of an official reporter for the sixth (6th) and each successive day a reporter is required.

(3) In addition to any fee otherwise required in a civil case in which the court orders a daily transcript necessitating the services of two phonographic reporters, the party requesting the daily transcript shall pay a fee per day equal to the per diem rate for official reporters pro tempore for the services of the second reporter for the first and each successive day.

SEC. 22. Article 40 (commencing with Section 74980) is added to Chapter 10 of Title 8 of the Government Code, to read:

Article 40. Redding

74980. This article applies to the municipal court established in the Redding Judicial District of Shasta County.

74981. There shall be one judge of the Redding Municipal Court.

74982. (a) If the Shasta County Board of Supervisors finds that there are sufficient funds available in the municipal court budget for the employment of a commissioner, the board by ordinance or resolution may establish the position of commissioner of the Redding Municipal Court.

(b) The commissioner shall be appointed by and serve at the pleasure of the court. The commissioner shall receive an hourly wage, set by the court from within Salary Range 50.8 of the standard salary resolution of Shasta County in effect on June 30, 1983, for each hour or fraction of an hour of service.

(c) The commissioner shall perform those duties and exercise those powers conferred by law and assigned to the commissioner by the court.

74983. If an official court reporter of the superior court in and for Shasta County is not available for assignment as a reporter pro tempore of the municipal court pursuant to Sections 72197 and

70045.9, the court may appoint as many additional reporters pro tempore as the business of the court requires. They shall serve without salary and without any entitlement to any benefit included in the compensation of any other officer or employee of Shasta County, but shall receive the fees provided by Sections 69947 to 69953, inclusive.

74984. (a) There shall be one marshal who shall be appointed by the court; provided, that upon the effective date of this section, the incumbent elected marshal shall continue in office as marshal and may be removed by the court only for cause. When that marshal leaves office, the succeeding marshals shall be appointed by and serve at the pleasure of the court.

(b) The marshal shall receive the salary established for Salary Range 44, Step E, in the standard salary resolution of Shasta County in effect on June 30, 1983. The marshal shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(c) The board of supervisors may transfer certain duties of the sheriff to the marshal pursuant to Section 26608.3.

(d) All fees collected by the marshal's office shall be deposited with the county treasurer and credited to the general fund.

74985. (a) The marshal, with the approval of the court, may appoint the following marshal's office employees whose numbers, classifications, and salary ranges in the standard salary resolution of Shasta County are:

Position Title	Number of Positions	Salary Range
Deputy Marshal I and II	4	25.5 - I 27.0 - II
Senior Account Clerk	1	27.0
Typist Clerk III	1	25.7

Regular deputy marshals shall also receive as additional compensation 75 percent of the fees each deputy collects on behalf of the marshal's office, payable by the county at the same time and in the same manner as their salaries are paid.

(b) Each employee of the marshal's office shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

(c) With the consent of the court, not more than five reserve deputy marshals may be hired by the marshal on an extra help basis and as the business of the court requires. Reserve deputy marshals shall receive as their sole compensation for serving or executing any judicial writ, process, or notice the fee set by statute for the same service or execution by the marshal. For attending the municipal court, reserve deputy marshals shall receive as their sole compensa-

tion the base salary of a Deputy Marshal I, calculated on an hourly basis, for each hour or fraction of an hour of service. Reserve deputy marshals shall not be entitled to any employment benefit provided by Shasta County to any other county officer or employee.

74986. (a) The municipal court may appoint a municipal court administrator who shall be the chief administrative officer and exofficio clerk of the court. The administrator shall serve at the pleasure of the court and shall receive a salary set by the court from within Salary Range 38.7 of the standard salary resolution of Shasta County in effect on June 30, 1983. The administrator shall be provided the same employment benefits by Shasta County as the county provides to other county employees in an equivalent category in the county's merit personnel system.

(b) The municipal court shall prescribe and regulate the duties and authority of the administrator.

74987. (a) The municipal court administrator, with the approval of the court, may appoint the court's support staff personnel. The following employees of the court shall be compensated within the following applicable ranges established by the standard salary resolution of Shasta County in effect on June 30, 1983:

Position Title	Number of Positions	Salary Range
Senior Courtroom Clerk	1	27.0
Court Clerk II	2	25.5
Court Clerk I	10	23.5

(b) Each employee designated in subdivision (a) shall be provided the same employment benefits by Shasta County as the county provides to other county employees in equivalent categories and salary ranges in the county's merit personnel system.

74988. The court administrator, employees, and attachés of the court, the marshal and employees of the office of the marshal, except court reporters pro tempore and reserve deputy marshals, are employees of Shasta County for all purposes. However, nothing in this section affects the immunity from liability in damages which may otherwise attach to these employees as officers, employees, or attachés of the municipal court.

74989. The number, categories, and compensation of the officers, attachés, and employees provided by this article may be adjusted, as the need is determined, by the board of supervisors and in accordance with established county personnel and budgetary procedures. Any such adjustment shall be on an interim basis and shall expire 90 days after the adjournment of the next regular session of the Legislature. Nothing in this section precludes the judge from exercising powers in accordance with Sections 72150 and 72151.

74990. (a) The board of supervisors of Shasta County by ordinance may consolidate part or all of one or more of the justice court judicial districts in Shasta County with the Redding Judicial District

if the board finds after a public hearing that the consolidation or partial consolidation will equalize the work of the judges, expedite judicial business, or improve the administration of justice. Notice of the hearing shall be published at least once in a newspaper of general circulation in Shasta County and at least 15 days prior to the hearing.

(b) The county surveyor of Shasta County shall cause to be prepared a map of the new boundaries of the districts affected by the consolidation, and the map shall be incorporated by reference into any ordinance adopted pursuant to subdivision (a).

74991. The provisions of this article shall prevail over any other provisions of this title which may conflict therewith.

74992. The Board of Supervisors of Shasta County may transfer certain duties of the sheriff to the marshal pursuant to Section 26608.3.

SEC. 23. 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 1254

An act to amend Sections 8277.7, 17722, 17761, and 54444.3 of, and to repeal Section 17763 of, the Education Code, and to add Section 65975 to the Government Code, relating to facilities.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 8277.7 of the Education Code is amended to read:

8277.7. (a) As used in this section:

(1) "Board" means the State Allocation Board.

(2) "Lessee" means a child care and development contracting agency to whom the board has leased a relocatable facility pursuant to this section.

(b) The board, with the advice of the Superintendent of Public Instruction, may do all of the following:

(1) Establish such qualifications as it deems will best serve the purposes of this section for determining the eligibility of child care and development contracting agencies to lease relocatable facilities under this section.

(2) Establish such procedures and policies in connection with the administration of this section as it deems necessary.

(3) Adopt such rules and regulations for the administration of this section requiring such procedure, forms, and information, as it may deem necessary.

(4) Have constructed, furnished, equipped, or otherwise require whatever work is necessary to place relocatable child care and development facilities where needed.

(5) Own, have maintained, and lease relocatable classrooms to qualifying child care and development contracting agencies.

(c) The board shall lease relocatable facilities to qualifying child care and development contracting agencies for a rate based upon the intensity of use, location, and cost of the facilities, and shall require lessees to undertake all necessary maintenance, repairs, renewal, and replacement to ensure that a project is at all times kept in good repair, working order, and condition. All costs incurred for this purpose shall be borne by the lessee.

(d) The board shall require lessees to insure at their own expense for the benefit of the state, any leased relocatable facility which is the property of the state, against such risks, including liability from the use thereof, in such amounts as the board may deem necessary to protect the interest of the state.

(e) The board shall have authority to adopt rules establishing priorities for the acquisition and leasing of facilities to contracting agencies which will most benefit children needing child care and

development programs. The board shall require each lessee to demonstrate that relocatable facilities are utilized solely for operation of child care and development programs.

(f) No relocatable facilities shall be made available to a contracting agency unless the agency furnishes evidence, satisfactory to the board, that the contracting agency has no other facility available for rental, lease, or purchase in the geographic service area.

(g) The board shall have prepared for its use, performance specifications for relocatable facilities which are capable of being economically moved, and bids for the construction of which can be solicited from more than one responsible bidder. The board shall from time to time solicit bids from, and award to, the lowest responsible competitive bidder, contracts for the construction or purchase of only such numbers of relocatable facilities as have been approved for lease to eligible child care and development contracting agencies.

(h) If at any time the board determines that a lessee's need for particular relocatable facilities which were made available to the lessee pursuant to this chapter has ceased, the board may take possession of the relocatable facilities and may lease them to other eligible contracting agencies or, if there is no longer a need for the relocatable facilities, the board may dispose of them to public or private parties in such manner as it deems to be in the best interests of the state.

Any revenue which is derived from a lease or other disposition of such relocatable facilities pursuant to this section is continuously appropriated to the board for the purposes of this section to fund the purchase of other relocatable facilities for child care and development programs.

SEC. 2. Section 17722 of the Education Code is amended to read:

17722. Except as provided in Section 17741, the board shall not approve any new school facilities for any applicant school district or county superintendent of schools until it has first made a determination that the applicant will utilize all existing facilities to the extent economically and practically feasible.

The board may also require the applicant to explore cooperative efforts with adjacent districts or, in the case of county superintendents of schools, adjacent county superintendents of schools, in order that all existing or planned facilities in the general area of need shall be utilized to the extent economically and practically feasible.

SEC. 3. Section 17761 of the Education Code is amended to read:

17761. (a) Except as provided in subdivision (b), each school district to which funds are allocated pursuant to this chapter shall either: (1) provide 10 percent of the cost of the project from other district funds; or (2) agree to contribute, each year for a period of 10 years, to the State School Deferred Maintenance Fund an amount equal to 1 percent of the cost of the project.

(b) The State Allocation Board may grant a waiver of either or both of the requirements prescribed by subdivision (a) in a case of hardship, as defined by the State Allocation Board. This subdivision shall only apply to buildings used solely for housing special education pupils.

SEC. 4. Section 17763 of the Education Code is repealed.

SEC. 5. Section 65975 is added to the Government Code, to read:

65975. (a) Whenever a school district has received approval, under the State School Building Lease-Purchase Law of 1976, (Ch. 22 (commencing with Section 17700), Pt. 10, Ed. C.) of a school project to be constructed in an attendance area where fees have been collected pursuant to Section 65974, all or a portion of the fees so collected for interim facilities may be used by the district to provide its 10 percent of the project as required by item (1) of Section 17761 of the Education Code. Nothing in this section shall increase the amount of fees that would otherwise be collected pursuant to Section 65974.

(b) Whenever a school district has received approval, under the State School Building Lease-Purchase Law of 1976 (Ch. 22 (commencing with Section 17700), Pt. 10, Ed. C.), of a school project to be constructed in an attendance area where land has been received pursuant to Section 65974, the district may use the fair market value of the land to provide all or a portion of its 10 percent of the school project as required by item (1) of subdivision (a) of Section 17761. In order to use the value of land to meet the 10 percent match requirement, the district shall construct the capital outlay project on the land used to make the match, and shall provide the full 10 percent of the project cost at one time as provided in item (1) of subdivision (a) of Section 17761 of the Education Code.

SEC. 6. Section 54444.3 of the Education Code is amended to read:

54444.3. (a) Each operating agency receiving Title I Migrant Education funding shall conduct summer school programs for eligible migrant children in kindergarten and grades 1 to 12, inclusive. The summer school programs shall respond to the individual needs of participating pupils and shall build on and be consistent with the instructional programs offered to these pupils during the regular school year. Each summer school program shall be funded, to the extent that funds are available, by federal funds earmarked for migrant education programs, and shall meet the following criteria:

(1) That summer school programs meet the following time requirements:

(A) For kindergarten classes, not less than 180 minutes per day, based upon the full apportionment day of 240 minutes, including recesses, for not less than 20 teaching days.

(B) For grades 1 to 8, not less than 200 minutes per day, based upon the full apportionment day of 240 minutes, including recesses and passing time but excluding noon intermissions, for not less than

20 teaching days.

(C) For grades 7 to 12, not less than 240 minutes per day, including passing time but excluding noon intermissions, for not less than 30 teaching days.

Exemptions from the requirements of this paragraph may be made by the Superintendent of Public Instruction upon petition submitted to him by the district. The basis for the exemption shall be agricultural labor factors, climatic conditions, specialized educational programs, and other conditions appearing to the superintendent to warrant exemption.

For purposes of this paragraph, holidays designated in Section 37220 other than Saturday and Sunday may be deducted from the required number of teaching days.

(2) That the program has been established with the prior written approval of the superintendent based upon the submission of an application which is in the form prescribed and furnished by the superintendent. Each application shall designate the persons who will exercise administrative or supervisorial responsibilities for the summer school program and shall be submitted prior to the establishment of the summer school program.

(3) That the summer school program contains coursework which is of the same level of difficulty in each subject as that provided to pupils enrolled in regular classes of instruction within the school district in the preceding year.

(4) That instructional programs are taught by staff with cultural training or background and understanding of the special needs of migrant children, and who are properly credentialed for the subjects and grade levels to which they are assigned.

(5) That the summer school program supplements other summer school programs, whether required or optional and whether federally or state funded, operated by the school district, including the programs for graduating high school seniors, handicapped children, pupils enrolled in grade 11, pupils enrolled in grades 7 to 12 who do not meet the district's adopted proficiency standards, and eligible compensatory education pupils.

(b) Each school district, county office of education, and community college district shall, upon request, make facilities available at cost for the operation of migrant summer school programs whenever they are available. Where available, these facilities shall be suitable for the summer climate. The superintendent may allow neighboring districts to jointly offer facilities if he or she determines that the use of one district's facilities for an area will adequately meet the needs of the migrant summer school program for the entire area.

If the Superintendent of Public Instruction determines that requests from prospective users of these facilities were denied without just cause, the superintendent shall reduce the district's or county superintendent's entitlement from Section A of the State School Fund by an amount equal to one thousand dollars ($1,000) or

four times the costs to the prospective user for alternative facilities for the entire period for which the facilities were requested, whichever is greater.

CHAPTER 1255

An act to amend Section 7520 of the Corporation's Code, and to amend Sections 441.4, 441.9, 441.14, 441.16, 441.185, 441.20, and 442.10 of, to amend and repeal Sections 441.15, 441.18, 442, 442.1, and 442.4 of, to repeal and add Sections 442.3 and 442.5 of, and to repeal Section 441.2 of, the Health and Safety Code, relating to governmental regulation.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 7520 of the Corporations Code is amended to read:

7520. As to directors elected by members, there shall be available to the members reasonable nomination and election procedures given the nature, size and operations of the corporation. The procedures shall include:

(a) A reasonable means of nominating persons for election as directors.

(b) A reasonable opportunity for a nominee to communicate to the members the nominee's qualifications and the reasons for the nominee's candidacy.

(c) A reasonable opportunity for all nominees to solicit votes.

(d) A reasonable opportunity for all members to choose among the nominees.

(e) Subject to the provisions of subdivisions (a), (b), and (d) of Section 7616, the superior court of the proper county shall enforce the provisions of this section.

SEC. 1.5. Section 441.2 of the Health and Safety Code is repealed.

SEC. 2. Section 441.4 of the Health and Safety Code is amended to read:

441.4. No public member of the commission appointed after January 1, 1984, shall at any time during his or her period of service own, operate, manage, or be employed by any health facility or organization composed of health facilities subject to the provisions of this part.

SEC. 3. Section 441.9 of the Health and Safety Code is amended to read:

441.9. (a) The commission, in its implementation of this part, shall formulate general policies which shall advance the purposes of this part and direct the executive director in his or her execution of

these policies. It may, after consultation with, and receipt of, the recommendations of the advisory council and advisory committees appointed pursuant to this section with respect thereto, adopt, promulgate, repeal, and amend rules and regulations consistent with law to carry out the provisions of this part. In carrying out its duties under this part, the commission shall follow the procedures established by the provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, regulations adopted under this section, however, need not be published in the California Administrative Code or California Administrative Register if they are included in the publications of the commission.

(b) The commission may do all of the following:

(1) Appoint committees from its membership and appoint advisory committees which may include as members individuals and representatives of interested public and private groups and organizations.

(2) Contract for any professional and business services and employ staff members including officers, examiners, statisticians, accountants, inspectors, consultants, clerks and employees as it deems necessary to carry out the provisions of this part or to perform the duties and exercise the powers conferred on it by law.

(3) Contract for the use of, or otherwise procure, necessary physical facilities and all necessary books, maps, charts, stationery, instruments, office furniture, apparatus, and appliances.

The authority granted by this section does not limit the contracting authority granted the commission under Section 442.6. All contracts or purchases authorized by this part shall be subject to the provisions of Chapter 1 (commencing with Section 10100) of Part 2 of Division 2 of Title 2 of the Public Contract Code, and Chapter 6 (commencing with Section 14780) of Part 5.5 of Division 3 of Title 2 of the Government Code. The commission shall have no administrative or executive functions other than those set forth in this part.

SEC. 4. Section 441.14 of the Health and Safety Code is amended to read:

441.14. On or before the first day of November of each year, the commission shall prepare and transmit to the Governor and the Legislature a report of all commission operations and activities for the preceding fiscal year, together with a record of all its receipts and disbursements for that year. This report shall include copies of all summaries, compilations, and supplementary reports prepared in accordance with the provisions of Section 442.2 together with such facts, suggestions, and recommendations as the commission deems valuable to the people of the state.

SEC. 5. Section 441.15 of the Health and Safety Code, as amended by Section 2 of Chapter 594 of the Statutes of 1980, is amended to read:

441.15. The commission, after consultation with the advisory council, receipt of the recommendations of the advisory council, and public hearings with respect thereto, shall, as soon as practicable after the effective date of this part, have prepared, published, and ready for distribution to all the health facilities subject to the provisions of this part approved systems of health facility accounting and uniform reporting which shall be structured so as to enable all such health facilities to fairly, accurately, and efficiently prepare the particular financial reports required by Sections 441.18 and 441.185. Existing systems of accounting and reporting used by health facilities shall be examined and given due consideration by the commission in carrying out its duty of preparing the systems of accounting and uniform reporting required by this section.

The commission, after receipt of the recommendations of the advisory council and public hearings with respect thereto, shall as soon as practicable on or after July 1, 1975, have prepared, published, and ready for distribution to all skilled nursing facilities and intermediate care facilities, approved systems of accounting and uniform reporting, which shall be structured so as to enable all such health facilities to fairly, accurately, and efficiently prepare the particular financial reports required by the commission. Existing systems of accounting and reporting used by skilled nursing facilities and intermediate care facilities shall be examined and given due consideration by the commission in preparing the systems of accounting and uniform reporting required by this section.

SEC. 6. Section 441.15 of the Health and Safety Code, as added by Section 2.5 of Chapter 594 of the Statutes of 1980, is repealed.

SEC. 7. Section 441.16 of the Health and Safety Code is amended to read:

441.16. (a) The commission shall allow and provide, in accordance with appropriate regulations, for modifications in the accounting and reporting systems approved pursuant to Section 441.15 for use by health facilities in meeting the requirements of this part if such modifications will not interfere with the purposes established in Section 441 and if the modifications are necessary to do any the following:

(1) To correctly reflect differences in size of, provision of, or payment for, services rendered by health facilities.

(2) To correctly reflect differences in scope, type, or method of provision of, or payment for, services rendered by health facilities.

(3) To avoid unduly burdensome costs for those health facilities in meeting the requirements of differences pursuant to paragraphs (1) and (2).

(b) The commission shall allow and provide, in accordance with appropriate regulations, for modifications to discharge data reporting requirements if these modifications will not impair the commission's ability to process the data or interfere with the purposes of this part. This modification authority shall not be construed to permit the commission to administratively require the

reporting of discharge data items not specified in Section 441.18.

(c) The commission shall establish specific reporting provisions for health facilities that receive a preponderance of their revenue from associated comprehensive group-practice prepayment health care service plans. Such health facilities shall be authorized to utilize established accounting systems, and to report costs and revenues in a manner which is consistent with the operating principles of such plans and with generally accepted accounting principles. When these health facilities are operated as units of a coordinated group of health facilities under common management, they shall be authorized to report as a group rather than as individual institutions. As a group, they shall submit a consolidated balance sheet, an income and expense statement, and a statement of source and application of funds. However, cost data shall be reported for each individual institution.

The commission shall adopt comparable modifications to the financial reporting requirements of this part for county hospital systems consistent with the purposes of Section 441.

(d) The commission shall establish approved systems of health facility accounting, uniform reporting, and auditing to create, to the extent feasible, one uniform, comprehensive state system which takes into account the data requirements of all state programs. The commission shall make available information required by other state agencies for programs they administer or in which they have an interest.

This section shall not preclude the state administrative agency responsible for administration of a program from obtaining from health care institutions data not available from the commission which the administrative agency determines is necessary for administration of the program. Administrative agencies shall use the comprehensive system provided for in this section to the maximum extent feasible.

SEC. 8. Section 441.18 of the Health and Safety Code, as amended by Chapter 329 of the Statutes of 1982, is amended to read:

441.18. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the commission, within four months after the close of the organization's calendar or fiscal year for all annual accounting periods to which the systems of accounting and uniform reporting approved under Section 441.17 are made applicable thereby, all of the following reports on forms specified by the commission which shall be in accord with such systems of accounting and uniform reporting:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual period ending on the balance sheet date.

(c) A statement detailing the source and application of funds expended by the health facility for the period encompassed by the

income statement required by subdivision (b).

(d) A statement reporting the information required in subdivisions (a), (b), and (c) of this section for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(e) A report of health facility expenditures which allocates the costs of non-revenue-producing departments of a health facility to the other non-revenue- and revenue-producing centers which they serve, similar to the "step-down" or "double-apportionment" methods of cost finding used in reporting health facility cost experience under Title XVIII of the Federal Social Security Act. Any health facility which participates in Title XVIII as a provider of health care services may elect to file the cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII in place of the report required by the commission under this subdivision.

(f) The report required by subdivision (e) shall be accompanied by an accurate and sufficiently detailed statistical report containing data taken from the health facility's basic accounts and patient statistics as maintained under one of the systems approved in accordance with Section 441.17, which identifies costs related to categories, types or units of health care services delivered to patients by the operating departments of the health facility in accordance with a list of such services provided by the commission acting under the provisions of Section 441.15. Any health facility which participates in Title XVIII of the Federal Social Security Act may elect to file the statistical reports covering the provision of such health care services required under Title XVIII in place of the report required by the commission under this subdivision.

Health facilities described in subdivision (c) of Section 441.16 shall file such statements and reports, not inconsistent with subdivision (c) of Section 441.16, as the commission may reasonably require for the annual financial reporting period of such health facilities or group of health facilities.

On or before January 1, 1981, the commission, with the advice and consultation of the State Department of Health Services, shall adopt a single, uniform fiscal reporting document for long-term care facilities for use by the commission and the department.

(g) If federal regulations implementing subsection (a) of Section 19 of Public Law 95-142 relating to hospital reporting requirements for the Uniform Hospital Discharge Data Set (UHDDS) have not been adopted on or before July 1, 1981, every hospital for the first accounting year commencing on or after July 1, 1981, shall file a Hospital Discharge Abstract Data Record limited to all of the following:

(1) Date of birth.

(2) Sex.

(3) Race.

(4) Zip code.

(5) Admission date.
(6) Source of admission.
(7) Type of admission.
(8) Discharge date.
(9) Principal diagnosis.
(10) Other diagnoses.
(11) Principal procedure and date
(12) Other procedures and dates.
(13) Total charges.
(14) Disposition of patient.
(15) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner.

A hospital or its designee shall annually file the Hospital Discharge Abstract Data Record not later than six months after the end of the calendar year, and the commission shall publish individual hospital discharge data summaries no later than six months after the date that the data required by this subdivision is submitted. A hospital may submit the Hospital Discharge Abstract Data Record in a computer tape format, and a hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures. General acute care hospitals with a psychiatric component may use coding from the Diagnostic and Statistical Manual of Mental Disorders when reporting psychiatric patient discharge data. The commission shall have authority to grant modifications to systems of reporting the Hospital Discharge Abstract Data Record.

When the discharge data reporting requirements of Public Law 95-142 are implemented, the requirements of the Hospital Discharge Abstract Data Record adopted by the commission pursuant to this subdivision shall cease to be effective and the requirements of the federal regulations shall thereafter govern the data to be reported pursuant to this subdivision.

(h) The commission shall adopt forms of authentication for use by health facility officers or licensed accountants preparing reports under this section stating that each such officer or accountant making the authentication believes that to the extent of his knowledge and information each statement in the report is true.

With the exception of hospital discharge abstract data, all reports required to be filed by the health facility with the commission shall be available for inspection by the public during regular working hours at the principal location of the health facility and at the commission.

SEC. 8.5. Section 441.18 of the Health and Safety Code, as added by Section 4.5 of Chapter 594 of the Statutes of 1980, is repealed.

SEC. 9. Section 441.185 of the Health and Safety Code is amended to read:

441.185. Beginning with the first calendar quarter of 1981, summary financial and utilization data shall be reported by each hospital within 45 days of the end of every calendar quarter. Adjusted

reports reflecting changes as a result of audited financial statements may be filed within four months of the close of the hospital's fiscal or calendar year. The quarterly summary financial and utilization data shall conform to the uniform description of accounts as contained in the commission's Accounting and Reporting Manual for California Hospitals and shall be limited only to the following:

(a) Number of licensed beds.
(b) Average number of available beds.
(c) Average number of staffed beds.
(d) Number of discharges.
(e) Number of inpatient days.
(f) Number of outpatient visits.
(g) Total operating expenses.
(h) Total inpatient gross revenues.
(i) Total outpatient gross revenues.
(j) Total deductions from revenues.
(k) Total capital expenditures.
(*l*) Total net fixed assets.

For the purpose of establishing a base period, hospitals shall file reports for similar quarters from 1980 when reporting the calendar quarters of 1981. Hospitals reporting pursuant to Section 441.16 may provide the items in subdivisions (g), (h), (i), and (j) on a group basis, as described in subdivision (c) of Section 441.16.

The commission shall make available at cost, to all interested parties, a computer tape of all reports made pursuant to this section within 105 days of the end of every calendar quarter.

The commission shall publish within 105 days of the close of every calendar quarter a preliminary report.

SEC. 10. Section 441.20 of the Health and Safety Code is amended to read:

441.20. A hospital that is a charitable research hospital is exempt from the provisions of subdivision (g) of Section 441.18 and Section 441.185.

For purposes of this section, "charitable research hospital" means a hospital that meets all the following criteria:

(a) Is internationally recognized as devoting itself primarily to medical research.

(b) Expends not less than 10 percent of its operating budget in each fiscal year exclusively on medical research activities which are not directly related to the provision of services to patients.

(c) Derives not less than one-third of its gross revenues in each fiscal year from contributions, donations, grants, gifts, or other gratuitous forms from individuals, groups, persons, or entities unrelated to the hospital. Contributions, donations, grants, gifts, or other gratuitous sources of revenue received as compensation for medical services provided patients shall not be considered for purposes of this subdivision.

(d) Accepts patients without regard to the patient's ability to pay for medical services.

(e) Not less than two-thirds of the patients admitted have a primary diagnosis or suspected disease or condition directly related to the specific area or areas in which the hospital conducts research. Patients admitted because of an emergent life-threatening condition who could not be safely transported to another hospital shall not be considered as patients for purposes of this section.

SEC. 11. Section 442 of the Health and Safety Code, as added by Section 7 of Chapter 594 of the Statutes of 1980, is amended to read:

442. (a) The commission shall maintain a file of all the reports filed under Sections 441.18, 441.185, and 442.1 at its Sacramento office. Subject to such rules as the commission may prescribe, such reports shall be produced and made available for inspection upon the demand of any person.

(b) Copies certified by the commission as being true and correct copies of reports properly filed with the commission pursuant to Sections 441.18 and 441.185, together with summaries, compilations, or supplementary reports prepared by the commission pursuant to Section 442.1, shall be introduced as evidence, where relevant, at any hearing, investigation, or other proceeding held, made or taken by any state, county, or local governmental agency, board, or commission which participates as a purchaser of health facility services pursuant to the provisions of a publicly financed state or federal health care program. Each such state, county, or local governmental agency, board, or commission shall weigh and consider the reports made available to it pursuant to the provisions of this subdivision in its formulation and implementation of policies, regulations, or procedures regarding reimbursement methods and rates in the administration of such publicly financed programs.

SEC. 12. Section 442 of the Health and Safety Code, as added by Section 7.5 of Chapter 594 of the Statutes of 1980, is repealed.

SEC. 13. Section 442.1 of the Health and Safety Code, as amended by Section 8 of Chapter 594 of the Statutes of 1980, is amended to read:

442.1. In addition to its other responsibilities under the provisions of this part, the commission shall prepare and file such summaries, compilations, or other supplementary reports based on the information filed with the commission pursuant to Sections 441.18 and 441.185 as it determines will advance the purposes of this part. All such summaries, compilations, and reports shall be open to public inspection and shall be made available to public agencies in accord with the provisions of Section 442 of this part.

SEC. 14. Section 442.1 of the Health and Safety Code, as added by Section 8.5 of Chapter 594 of the Statutes of 1980, is repealed.

SEC. 15. Section 442.3 of the Health and Safety Code, as amended by Section 3 of Chapter 1594 of the Statutes of 1982, is repealed.

SEC. 16. Section 442.3 of the Health and Safety Code, as amended by Section 4 of Chapter 1594 of the Statutes of 1982, is repealed.

SEC. 17. Section 442.3 is added to the Health and Safety Code, to read:

442.3. (a) Any health facility which does not file any report as required by Sections 441.18 and 441.185 with the commission is liable for a civil penalty of one hundred dollars ($100) a day for each day the filing of any report is delayed. No penalty shall be imposed if an extension is granted in accordance with the guidelines and procedures established by the commission pursuant to Section 442.4.

(b) Any health facility which does not use an approved system of accounting pursuant to the provisions of subdivision (d) of Section 441.16 for purposes of submitting financial and statistical reports as required by this part shall be liable for a civil penalty of not more than five thousand dollars ($5,000).

(c) Civil penalties are to be assessed and recovered in a civil action brought in the name of the people of the State of California by the commission. Assessment of a civil penalty may, at the request of any health facility, be reviewed on appeal, and the penalty may be reduced or waived for good cause.

(d) Any money which is received by the commission pursuant to this section shall be paid into the commission's operating fund established by Section 442.10.

SEC. 18. Section 442.4 of the Health and Safety Code, as amended by Section 10 of Chapter 594 of the Statutes of 1980, is amended to read:

442.4. The commission shall, by regulation, establish guidelines and procedures to enable all health facilities subject to the provisions of this part to request reasonable extensions of time in which to file any or all of the reports required by Sections 441.18 and 441.185. The regulations shall provide for the grant of such extensions by the executive director in cases where the health facility requesting them can show good and sufficient cause for the extension.

Any health facility denied an extension under this section may petition the commission for a hearing on appeal to review the action of the executive director in refusing its request for the extension in accord with the provisions of Section 442.5; but the filing of a petition pursuant to that section shall not, unless a decision of the executive director is reversed on appeal, limit the continued accrual of the charges levied under this section against a health facility which fails to meet the deadline for filing reports established by Sections 441.18 and 441.185.

SEC. 19. Section 442.4 of the Health and Safety Code, as added by Section 10.5 of Chapter 594 of the Statutes of 1980, is repealed.

SEC. 20. Section 442.5 of the Health and Safety Code is repealed.

SEC. 21. Section 442.5 is added to the Health and Safety Code, to read:

442.5. Any health facility affected by any determination made under this part by the executive director may petition the commission for review of the decision. This petition shall be filed with the commission within 15 calendar days, or within such greater time as the commission may allow, and shall specifically describe the matters which are disputed by the petitioner.

A hearing shall be commenced within 60 calendar days of the date on which the petition was filed. The hearing shall be held before a committee of the commission chosen by the chairperson for this purpose, or a hearing officer employed by the Office of Administrative Hearings. If held before a committee of the commission, the hearing shall be held in accordance with such procedures as the commission shall prescribe. If held before a hearing officer employed by the Office of Administrative Hearings, the hearing shall be held in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Division 3 of the Government Code. The hearing officer shall prepare a recommended decision including findings of fact and conclusions of law and present it to the committee for its adoption. The decision of a majority of the committee shall be in writing and shall be final. The decision of the committee shall be made within 60 calendar days after the conclusion of the hearing and shall be effective upon filing at the commission's office and service upon the petitioner.

Judicial review of any final action, determination, or decision may be had by any party to the proceedings as provided in Section 1094.5 of the Code of Civil Procedure. The decision of the committee shall be upheld against a claim that its findings are not supported by the evidence unless the court determines that the findings are not supported by substantial evidence.

The committee, or hearing officer designated to conduct a hearing pursuant to this section shall be permitted to issue subpoenas and subpoenas duces tecum in a manner and subject to the conditions established by Section 11510 of the Government Code.

SEC. 22. Section 442.10 of the Health and Safety Code is amended to read:

442.10. The California Hospital Commission Fund is hereby renamed the California Health Facilities Commission Fund. For the purposes of funding such contracts of the commission as are authorized by the provisions of this part and for meeting the costs of the commission in carrying out its duties in the administration thereof, fees shall be collected by the commission as follows and shall be deposited in the California Health Facilities Commission Fund which is hereby established:

(a) The commission shall set, and charge to, and collect from all health facilities a special fee, which shall be due on July 1 and delinquent on July 31 of each year, of not more than 0.05 of 1 percent, with respect to skilled nursing facilities and intermediate care facilities, and not more than 0.024 of 1 percent, with respect to other health facilities, of the health facility's gross operating cost for the provision of health care services for its last fiscal year which ended on or before December 31 of the preceding calendar year. Each year the commission shall establish the fee to produce revenues equal to the appropriation for these purposes in the Budget Act for the current fiscal year.

(b) Any amounts raised by the collection of the special fees

provided for by subdivision (a) which are not required to meet appropriations in the Budget Act for the current fiscal year shall be available to the commission in succeeding years, when appropriated by the Legislature, for expenditure under the provisions of this part and shall reduce the amount of such special fees which the commission is authorized to set and charge.

(c) No health facility against which the fees required by this section are charged shall be issued a license or have an existing license renewed unless the fees are paid. The commission may bring an action to enjoin the violation or threatened violation of this subdivision in the superior court in and for the county in which the violation occurred or is about to occur. Any proceeding under the provisions of this subdivision 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 the commission shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or to show or tending to show irreparable damage or loss.

SEC. 23. 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 1256

An act to amend Sections 6546 and 16731 of the Government Code, and to amend and repeal Section 11731 of the Water Code, relating to bonds.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 6546 of the Government Code is amended to read:

6546. In addition to other powers, any agency, commission, or board provided for by a joint powers agreement pursuant to Article 1 (commencing with Section 6500) may issue revenue bonds pursuant to this article to pay the cost and expenses of acquiring or constructing a project for any or all of the following purposes, if the entity has the power to acquire, construct, maintain, or operate any one or more of the following projects:

(a) An exhibition building or other place for holding fairs or exhibitions for the display of agricultural, livestock, industrial, or other products, including movable equipment, entertainment

facilities, and other facilities to be used in conjunction with holding a fair or exposition in several locations.

(b) A coliseum, a stadium, a sport arena or sports pavilion or other building for holding sport events, athletic contests, contests of skill, exhibitions, spectacles and other public meetings.

(c) Any other public buildings.

(d) In a county having a population in excess of 4,000,000, a regional public park or regional public recreation area and all facilities and improvements related thereto.

(e) A facility for the generation or transmission of electrical energy for public or private uses and all rights, properties, and improvements necessary therefor, including fuel and water facilities and resources.

(f) A facility for the disposal, treatment, or conversion to energy and reusable materials of solid waste.

(g) Facilities for the production, storage, transmission, and treatment of water.

As used in this chapter, "transmission of electric energy" does not include the final distribution of electric energy to the consumer.

SEC. 2. Section 16731 of the Government Code is amended to read:

16731. Whenever the committee determines that the sale of all or any part of the bonds authorized to be issued is necessary or desirable, it shall adopt a resolution to that effect. The resolution shall authorize and direct the Treasurer to arrange for the preparation of the requisite number of suitable bonds, either in coupon or registered form, and shall specify as to such bonds then to be sold:

(a) The aggregate number, aggregate par value, denominations and the date of the bonds to be then sold. Such denominations shall be in the sum of one thousand dollars ($1,000), or multiples thereof. The date appearing on said bonds shall be deemed to be the date of issuance for all purposes of this chapter, irrespective of the actual date of delivery of such bonds and the payment of the purchase price thereof.

(b) The dates of maturity, and the amount of the bonds maturing at each date of maturity, which amounts need not be equal, but which dates shall be at annual or semiannual intervals, and the first of which dates of maturity shall be not more than five years, and the last of which dates of maturity shall be not more than 45 years, after the date of the bonds.

(c) Whether or not the bonds are to be subject to redemption at the option of the board prior to maturity, and, if so, the provisions for such redemption, the manner of the call thereof, and the price or prices at which the bonds shall be subject to redemption.

(d) The annual rate, or rates, of interest which the bonds to be issued shall bear, which may be in multiples of one-eighth or one-twentieth of 1 percent, payable semiannually, but not in excess of 11 percent effective until July 1, 1986, and thereafter not in excess of 9 percent, which rate or rates may be determined at the time of

the sale of the bonds.

(e) The interest payment dates.

(f) The technical form and language of the bonds and any interest coupons to be attached thereto.

(g) Whether or not the right is reserved to make delivery in the form of temporary or interim bonds, certificates, or receipts, exchangeable for definitive bonds when executed and available for delivery, and if such right is reserved the denominations and form of such temporary securities.

(h) Whether the bonds are to be issued in coupon form or in fully registered form, or both, and whether or not any coupon bonds are to be subject to registration, and if so, whether such registration is to be as to principal only, or as to both principal and interest, or in either of such forms at the option of the holder, and the form and all of the terms and conditions of such registration. If such registration is provided for, coupon bonds may be interchanged for registered bonds and registered bonds for coupon bonds, and all of the provisions of this chapter with reference to the payment of bonds and interest coupons shall be subject to the terms and conditions of such registration with respect to the payment of registered bonds and the interest thereon.

(i) All other terms and conditions of the bonds and of the execution, issuance and sale thereof, which shall be consistent with all of the provisions of this chapter.

(j) Notwithstanding the provisions of subdivision (a), the provisions, if any, for the interexchange of coupon or registered bonds of different denominations and the issuance of coupon or registered bonds in lieu of or in exchange for bonds of a like aggregate principal amount but of different denominations and in either coupon or registered form, or partly in coupon and partly in registered form.

SEC. 3. Section 11731 of the Water Code, as amended by Section 1 of Chapter 593 of the Statutes of 1981, is amended to read:

11731. The department shall determine the interest rate on the bonds. The rate shall not exceed 12 percent per annum.

SEC. 4. Section 11731 of the Water Code, as added by Section 2 of Chapter 593 of the Statutes of 1981, is repealed.

CHAPTER 1257

An act to add Chapter 1.10 (commencing with Section 195) to Part 1 of Division 1 of the Health and Safety Code, relating to health.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Chapter 1.10 (commencing with Section 195) is added to Part 1 of Division 1 of the Health and Safety Code, to read:

CHAPTER 1.10. ACQUIRED IMMUNE DEFICIENCY SYNDROME RESEARCH AND WORKSHOP GRANTS

195. The Legislature hereby finds and declares the following:

(a) Acquired Immune Deficiency Syndrome is a serious disease threatening the lives of men and women of all segments of society.

(b) The advancement of knowledge about Acquired Immune Deficiency Syndrome will reveal fundamental information that may lead to treatment, prevention, and ultimately a cure which will be of great benefit to society.

(c) As of August 8, 1983, the reported cases in the United States totaled 2,008.

(d) About 40 percent of the victims have died of Acquired Immune Deficiency Syndrome, but it appears to be far more lethal. Of cases diagnosed a year ago, more than 60 percent have died, and the toll may go far higher.

(e) There is growing agreement that an infectious agent may be at fault but none has been found. There is no definitive test for diagnosing Acquired Immune Deficiency Syndrome.

(f) Although cases have been reported in 33 states, they have been concentrated in New York (48.7 percent) and California (21 percent). The cases reported in 20 California counties since 1979 exceed 450.

196. There is hereby created in the state department an AIDS Advisory Committee. The membership of the committee shall be composed of eight members who have knowledge or expertise in the area of public health or AIDS research. or have been educated in the areas for which the grants are to be directed by the committee. These members shall be appointed by the following:

(a) Two by the Speaker of the Assembly.

(b) Two by the Senate Rules Committee.

(c) Four by the Governor.

The Director of Health Services or a designee shall be an ex officio and voting member. The committee shall be abolished effective July 1, 1986, unless extended by subsequent legislative action.

197. The members of the AIDS Advisory Committee shall serve at the pleasure of the appointing powers. The members shall serve without compensation, but shall be reimbursed for necessary and travel expenses incurred in the performance of the duties of the committee.

The committee shall advise and assist the state in addressing the public health issues associated with Acquired Immune Deficiency Syndrome, and shall work with the State Department of Health Services in statewide efforts to promote primary prevention, public

education, and the advancement of knowledge regarding Acquired Immune Deficiency Syndrome.

198. The committee may establish such rules or criteria for grants under this chapter as it deems necessary. Pursuant to the rules or criteria, the committee may review and recommend approval by the director of grant applications and monitor programs receiving grants under this chapter.

199. The director may award grants from any funds which may be made available for the purposes of this chapter to individuals, organizations, or facilities for activities which may include, but need not be limited to, any of the following:

(a) Education regarding primary prevention for high risk groups.

(b) Public education to reduce panic and lessen unnecessary anxiety about AIDS among California residents.

(c) Interdisciplinary or educational workshops to facilitate the interchange of knowledge among investigators regarding AIDS and related disorders.

(d) Research grants which would assist the state with the educational efforts outlined in subdivisions (a) and (b).

(e) Grants to provide seed money for larger grants funded by the federal government or other sources.

199.3. The State Department of Health Services may do all of the following:

(a) Accept any federal funds provided for any of the purposes of this chapter.

(b) Accept any gift, donation, bequest, or grant of funds from a private or public agency for any of the purposes of this chapter.

199.5. Not more than 10 percent of any money appropriated for purposes of this chapter shall be utilized for the administration of this chapter.

CHAPTER 1258

An act to amend Section 22731 of the Education Code, to amend Sections 3516, 19826, 20334, 20390, 20816, 21251.15, and 21360 of, and to add Sections 20013.6, 20603.2, 20953, 21100.5, 21251.14, 21361.1, 21365.51, and 75095.5 to, and to add Article 1.7 (commencing with Section 19996.30) to Chapter 7 of Part 2.6 of Division 5 of Title 2 of, and to repeal Section 18850 of, the Government Code, and to amend Section 151.31 of Chapter 323 of, and Section 4.00 of Chapter 324 of, and to repeal Section 9.65 of Chapter 324 of, the Statutes of 1983, relating to state employees, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 22731 of the Education Code is amended to read:

22731. Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to members, who are state employees, if the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order which shall specify such period.

(b) The appointing power, as defined in Section 18524, of the Government Code, transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without the service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The appointing power determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the Department of Finance and to the Legislative Analyst, as to the specific economies that will be realized were the additional service credit towards retirement granted.

As used in this section, "member" means a state employee who is employed in a job classification, department, or other organizational unit designated by the appointing power, as defined in Section 18524 of the Government Code.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age. The appointing power shall make the payment with respect to all eligible employees who retired pursuant to this section.

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

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

The benefit provided by this section shall not be applicable to the employees of any appointing power until the Director of Finance approves the transmittal of funds by that appointing power or the Board of Regents or the Board of Trustees to the retirement fund pursuant to subdivision (b).

The Director of Finance shall approve the transmittal of funds by the appointing power not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy thereof shall be forthwith transmitted to the chairperson of each appropriate policy committee.

The Legislative Analyst and the Department of Finance shall report to the Governor and the Legislature as of the first legislative day of each year, as to the extent to which economies realized under the provisions of this section have equaled the cost to agencies as estimated by the board.

SEC. 1.2. Section 3516 of the Government Code is amended to read:

3516. The scope of representation shall be limited to wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

SEC. 1.3. Section 18850 of the Government Code is repealed.

SEC. 1.4. Section 19826 of the Government Code is amended to read:

19826. (a) The department shall establish and adjust salary ranges for each class of position in the state civil service subject to any merit limits contained in Article VII of the California Constitution. The salary range shall be based on the principle that like salaries shall be paid for comparable duties and responsibilities. In establishing or changing such ranges consideration shall be given to the prevailing rates for comparable service in other public employment and in private business. The department shall make no adjustments which require expenditures in excess of existing appropriations which may be used for salary increase purposes. The department may make a change in salary range retroactive to the date of application for such change.

(b) Notwithstanding any other provision of law, the department shall not establish, adjust, or recommend a salary range for any employees in an appropriate unit where an employee organization has been chosen as the exclusive representative pursuant to Section 3520.5.

(c) On or before January 10 of each year, the department shall submit to the parties meeting and conferring pursuant to Section

3517 and to the Legislature, a report containing the department's findings relating to the salaries of employees in comparable occupations in private industry and other governmental agencies.

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

SEC. 1.5. Article 1.7 (commencing with Section 19996.30) is added to Chapter 7 of Part 2.6 of Division 5 of Title 2 of the Government Code, to read:

Article 1.7. Reduced Worktime for Partial Service Retirement

19996.30. This article shall be known and may be cited as the "Partial Service Retirement Act."

19996.31. It is the intent of the Legislature in adopting this article to pursue the following objectives:

(a) To protect the fiscal soundness of the Public Employees' Retirement System.

(b) To increase the number and kinds of retirement options available to members of the system.

(c) To enhance the quality of service to the general public by retaining longer, on the average, the skill and expertise of our most experienced public servants.

(d) To reduce insofar as possible by this indirect means the social costs attributable to inappropriate or premature severance of connection with the labor market by retirees.

(e) To conduct and disseminate studies determining the extent to which the concepts embodied in this article are effective in achieving such objectives in hopes that, if successful, the program established under this article may be useful as a guide for extension of the concept to other retirement systems, public and private.

19996.32. Any state employee who is a state miscellaneous member working standard hours on a full-time basis, other than a university member, of the Public Employees' Retirement System and who has attained the age of 62 years and is eligible to retire pursuant to Article 1 (commencing with Section 20950) of Chapter 8 of Part 3 may elect to participate in reduced worktime for partial service retirement pursuant to this article, provided that the participation may be modified only pursuant to Section 19996.37.

19996.33. "Reduced worktime for partial service retirement" means any arrangement of worktime agreeable to both the appointing authority and the employee which aggregates no less, on an monthly basis, than a 20 percent reduction nor more than a 60 percent reduction from what would in that classification be considered full-time employment, combined with the concurrent

payment of proportionally reduced compensation and proportionally reduced retirement benefits.

19996.34. It is the policy of the state that reduced worktime for partial service retirement shall be made available to state employees eligible pursuant to Section 19996.32 who do not desire to work standard working hours on a full-time basis. Further, it is the intent of the Legislature that nothing in this act shall be used to reduce the number of full-time equivalency positions authorized to any department.

19996.35. (a) Any employee who is being coerced, or who has been required, by the appointing power, a supervisor, or another employee, to involuntarily reduce his or her worktime for partial service retirement contrary to the intent of this article, or who has been unreasonably denied the right to participate in this program, may file a grievance in accordance with either the applicable memorandum of understanding or rules and regulations of the department.

(b) Nothing in this article shall impair the employment or employment rights or benefits of any employee.

19996.36. In counting the number of employees any state agency employs for purposes of any personnel ceiling, an employee employed on a reduced worktime basis for partial service retirement shall be counted as a fraction which is determined by dividing 40 hours into the average number of hours that an employee works each week.

19996.37. (a) A permanent employee who voluntarily reduces his or her worktime for partial service retirement pursuant to this article shall, upon request and subject to subdivision (b), be given priority for returning to a full-time work schedule to the extent that such full-time work is available; provided, that any employee who so voluntarily returns to full-time work shall be ineligible for five years thereafter to again participate pursuant to this article. The appointing authority may require a participating employee to return to full-time employment only if a state of emergency has been declared pursuant to Section 8558 which affects the area of the state in which the employee works.

(b) A state employee who is participating pursuant to this article in reduced worktime for partial service retirement may: (1) elect only once in each fiscal year to further reduce his or her worktime; (2) elect only once in five years to increase his or her worktime to another less than full-time schedule.

19996.38. If the provisions of this article 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.

19996.39. All persons employed in reduced worktime positions

for partial service retirement pursuant to this article, shall receive proportionally reduced compensation and, on a pro rata basis, except for benefits provided under the Public Employees' Medical and Hospital Care Act and the State Employees' Dental Care Act, all benefits customarily available to full-time employees of state agencies in similar classes or positions. With regard to benefits provided under the Public Employees' Medical and Hospital Care Act, persons employed in reduced worktime positions for partial service retirement shall receive the same benefits as are provided by law for employees under the same circumstances who are employed, full time. The department may, for purposes of administrative efficiency, treat the class of partially retired employees as fully employed with respect to health care benefits, provided that such administrative treatment does not impair the level of benefits to which the class would be entitled if treated administratively another way.

19996.40. The department, in cooperation with the Public Employees' Retirement System, shall prepare and submit to the Legislature, for referral to the appropriate policy and fiscal committees of each house, a report by June 30 of the calendar year after this article becomes effective, and a follow-up report by June 30, of every even-numbered year thereafter. Such reports shall include, but not be limited to, the following:

(a) The extent that reduced worktime programs for partial service retirement are in use.

(b) The cost effectiveness of reduced worktime programs for partial service retirement.

(c) The actuarial impact of reduced worktime programs for partial service retirement.

(d) Recommendations on continuation of reduced worktime programs for partial service retirement and suggested statutory changes.

SEC. 2. Section 20013.6 is added to the Government Code, to read:

20013.6. Except as otherwise expressly provided, and notwithstanding Section 20035, state miscellaneous members participating in reduced worktime for partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 shall be considered members and shall not be considered retired, until they elect to become fully retired.

SEC. 3. Section 20334 of the Government Code is amended to read:

20334. An employee serving on a part-time basis is excluded from this system unless:

(a) He or she is a member at the time he or she renders part-time service.

(b) His or her position requires service for at least an average of 20 hours a week, or requires service which is equivalent to at least an average of 20 hours a week, and he or she is not excluded pursuant

to Section 20336.

(c) He or she is a member of the Board of Prison Terms and elects to become a member of this system pursuant to Section 20360.

(d) He or she is participating in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6.

(e) He or she is included by specific provision of the board relating to the exclusion of part-time employees.

SEC. 4. Section 20390 of the Government Code is amended to read:

20390. A person ceases to be a member:

(a) Upon retirement, except while participating in reduced worktime for partial service retirement.

(b) If he or she is paid his or her normal contributions, or if he or she is paid a portion of his or her normal contributions where more than one payment is made, or these contributions are held pursuant to Section 20208. For the purposes of this subdivision, (1) deposit in the United States mail of a warrant drawn in favor of a member, addressed to the latest address of the member on file in the office of this system, constitutes payment to the member of the amount for which the warrant is drawn or (2) electronic fund transfer to the person's bank, savings and loan association or credit union account, constitutes payment to the person of the amount of the warrant of funds electronically transferred.

(c) If the member has less than five years of service credit and no accumulated contributions in the retirement fund at the time of termination of service.

SEC. 4.5. Section 20816 of the Government Code is amended to read:

20816. Notwithstanding any other provisions of this part, whenever the Governor, by executive order, determines that because of an impending curtailment of, or change in the manner of performing service, the best interests of the state would be served by encouraging the retirement of state employees, and that sufficient economies could be realized to offset any cost to state agencies resulting from this section, an additional two years of service shall be credited to state members, other than school members, if the following conditions exist:

(a) The member is credited with five or more years of service and retires during a period not to exceed 120 days or less than 60 days commencing no sooner than the date of issuance of the Governor's executive order which shall specify such period.

(b) The appointing power, as defined in Section 18524, or the Board of Regents of the University of California or the Board of Trustees of the California State University, transmits to the retirement fund an amount determined by the board which is equal to the actuarial equivalent of the difference between the allowance the member receives after the receipt of service credit under this section and the amount the member would have received without

such service credit. The transfer to the retirement fund shall be made in a manner and time period acceptable to the employer and the board.

(c) The appointing power or the Board of Regents or the Board of Trustees determines that it is electing to exercise the provisions of this section, pursuant to the Governor's order, and certifies to the State Department of Finance and to the Office of Legislative Analyst, as to the specific economies that will be realized were the additional service credit towards retirement granted.

As used in this section, "member" means a state employee who is employed in a job classification, department, or other organizational unit designated by the appointing power, as defined in Section 18524, the Board of Regents of the University of California, or the Board of Trustees of the California State University.

The amount of service credit shall be two years regardless of credited service, but shall not exceed the number of years intervening between the date of the member's retirement and the date the member would be required to be retired because of age. The appointing power or the Board of Regents or the Board of Trustees shall make such payment with respect to all eligible employees who retired pursuant to this section.

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

This section shall not be applicable to any member otherwise eligible if such member receives any unemployment insurance payments arising out of employment with an employer subject to this part during a period extending one year beyond the date of issuance of the executive order or if the member is not eligible to retire without the additional credit available under this section.

The benefit provided by this section shall not be applicable to the employees of any appointing power or the Board of Regents or the Board of Trustees until the Director of Finance approves the transmittal of funds by that appointing power or the Board of Regents or the Board of Trustees to the retirement fund pursuant to subdivision (c).

The Director of Finance shall approve the transmittal of funds by the appointing power or the Board of Regents or the Board of Trustees not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house which considers appropriations and the Chairperson of the Joint Legislative Budget Committee, or not sooner than such lesser time as the chairperson of the committee, or his or her designee, may in each instance determine. If there is any written communication between the Director of Finance and the Legislative Analyst, a copy thereof shall be forthwith transmitted to the chairperson of each appropriate policy committee.

The Office of the Legislative Analyst and the Department of Finance shall report to the Governor and the Legislature as of the

first legislative day of each year, as to the extent to which economies realized under the provisions of this section have equaled the cost to agencies as estimated by the board.

SEC. 4.7. Section 20603.2 is added to the Government Code, to read:

20603.2. Notwithstanding Section 20603.01, the normal rate of contribution for patrol members for service rendered on and after January 1, 1984, shall be 8 percent of the compensation in excess of eight hundred sixty-three dollars ($863) per month paid such members. The Legislature reserves the right to increase the rate of contribution of patrol members as it may find appropriate from time to time. The employer may apply the specified amount of salaries and wages excluded from the normal rate of contribution to those employees not covered by a memorandum of understanding.

(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. 5. Section 20953 is added to the Government Code, to read:

20953. A state miscellaneous member, other than a university member, shall be partially retired for service upon his or her written application to the board if he or she has attained the age of 62 years, is credited with five years of state service, and has elected to participate in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 of this division.

SEC. 6. Section 21100.5 is added to the Government Code, to read:

21100.5. A person who has been partially retired under this system pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 may be reinstated from partial retirement by the board as provided in this article, and thereafter may continue to be employed on a full-time basis by the state, in the same manner as a person who has not been so retired.

SEC. 7. Section 21251.14 is added to the Government Code, to read:

21251.14. (a) A member who elects, pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6, to participate in partial service retirement, while so participating, shall receive a reduced service retirement allowance. The reduced service retirement allowance shall be the amount of the service retirement allowance to which the employee would otherwise have been entitled had he or she fully retired on the effective date of the partial service retirement, reduced by the percentage of the employee's full-time work which the employee has elected to work while on partial service retirement.

(b) A member who elects pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 to participate in partial service retirement and after so participating elects to become fully retired is entitled to the service retirement allowance as authorized by this article and as computed pursuant to Section 21251.15.

(c) The provisions of Article 4 (commencing with Section 21330) of Chapter 9, shall not apply to an employee who is participating in reduced worktime for partial service retirement.

(d) For a member who elects pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6 to become fully retired, the current service pension, or current and prior service pensions, as the case may be, upon his or her full service retirement shall be (1) the sum of a current service pension calculated on the basis of service rendered during participation in reduced worktime in accordance with the formula applicable to his or her current service pension, plus his or her current service pension, or current and prior service pensions, as the case may be, as it was prior to his or her full service retirement, provided, that full service retirement occurs before he or she renders, while participating in reduced worktime for partial service retirement, one year of state service credited under this system; or (2) if he or she has rendered one year or more of such state service while participating in reduced worktime for partial service retirement, a current service pension, or current and prior service pensions, as the case may be, based on the total years of service with which the member is entitled to be credited, calculated on the basis of the formula currently applicable to the employment in which the service was rendered. A member shall receive service credit for service during participation in reduced worktime for partial retirement and service credited at the time of the election to participate in reduced worktime for partial retirement.

SEC. 8. Section 21251.15 of the Government Code is amended to read:

21251.15. For a member reinstated from service retirement or partial service retirement, the current service pension, or current and prior service pensions, as the case may be, upon his service retirement subsequent to such reinstatement, shall be the sum of (1) a current service pension calculated on the basis of service rendered after reinstatement in accordance with the formula applicable to him in such service and membership, plus (2) his current service pension, or current and prior service pensions, as the case may be, as it was prior to his reinstatement, adjusted for any service on which such pension was based which was included in coverage of the federal system during reinstatement according to the formula applicable to such service in employment for which he was retired, and further adjusted according to any change after reinstatement in the provisions governing the calculation of his pension which would have applied to him had he continued in retirement but been subject to the formula applied in the first adjustment; provided, that such

subsequent retirement occurs before he renders, after his reinstatement, at least one year of state service credited under this system; or if he has rendered one year or more of such state service after reinstatement, in lieu of (2), plus (3) a current service pension based on current service rendered prior to such reinstatement, calculated on the basis of the formula currently applicable to the employment in which the service was rendered but on the basis of an age taken to the preceding completed quarter year but not less than the minimum retirement age applicable to him at his last retirement and determined by deducting from his age at his subsequent retirement, the aggregate time during which he was under retirement. For such a member reinstated from nonindustrial disability retirement, the current service pension upon his service retirement after attaining an age one year less than the minimum age at which he could have retired without an actuarial discount because of age in the employment from which he was last retired, or upon his disability retirement after attaining such minimum age, and subsequent to such reinstatement, shall be calculated in the manners described in the preceding sentence, but the age determined upon subsequent retirement after rendering at least one year of state service credited under the system shall not be taken at less than one year less than such minimum age if the subsequent retirement is for service, or such minimum age if the retirement is for disability.

The current service pension otherwise payable under this section to a member whose allowance prior to reinstatement was paid pursuant to his election under Section 21338 shall be reduced by the actuarial equivalent, on the date of retirement subsequent to reinstatement, of the amount (converted as below), if any, by which—

(a) The total amount, paid in the period during which a temporary annuity was included in the payments, said amount being reduced by the total amount that would have been payable during said period had said election not been made; exceeds

(b) The excess of the total amount that would have been payable, had said election not been made, during the time subsequent to said period and prior to reinstatement over the total amount actually paid during said time.

The amount determined by the above formula shall be converted to an amount equaling the actuarial equivalent on the date of reinstatement and this latter amount shall be the basis of the actuarial equivalent, on the date of retirement subsequent to reinstatement.

Actuarial equivalents required by this section shall be based on the interest rate and mortality tables in use by this system on the date of retirement subsequent to reinstatement.

Notwithstanding this section, or any other provision of this part, the current service pension payable to any member subject to this section who rendered one year or more of state service credited

under the system after reinstatement on retirement for service subsequent to reinstatement from service retirement for any credited service for which a current service pension was paid prior to reinstatement shall not be less than the current service pension which would be payable on the date of such subsequent retirement had the member not been reinstated, adjusted, however, by any reduction under this section because of an election under Section 21338 and, for any service so credited which was included in coverage of the federal system during reinstatement, according to the formula applicable to such service in employment from which he was retired.

SEC. 9. Section 21360 of the Government Code is amended to read:

21360. This system is liable for either the basic or special death benefit upon the death of a member (a) before the effective date of retirement, and (1) while in state service, or (2) while absent on military service and who makes contributions under Section 20891 or 20891.1 or for whom contributions will be made under Section 20894.5, or (3) within four months after discontinuance of state service, or while on an approved leave of absence, or (4) while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of state service, or (5) while employed as a member of a retirement system established under the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division 4 of Title 3); provided, such employment resulting in membership was begun on or after October 1, 1957, and within 90 days of discontinuance of state service, or (b) while in state service in partial service retirement pursuant to Article 1.7 (commencing with Section 19996.30) of Chapter 7 of Part 2.6, or (c) on or after the effective date of retirement and before the mailing of a retirement allowance warrant and either within four months of discontinuance of state service or while physically or mentally incapacitated for the performance of duty if such incapacity has been continuous from discontinuance of state service and providing all of the following conditions exist: (1) the retirement of the member was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (2) he has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, and (3) a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable. Upon the death of a member before the effective date of his retirement or, with respect to (1) any member whose retirement was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (2) any member who has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, on or after

such effective date and before the mailing of a retirement allowance warrant, under circumstances in which this system is not so liable for either the basic or special death benefit and a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable, this system is liable for a limited death benefit which consists only of the accumulated contributions of the member payable to his beneficiary or to his estate.

Liability imposed on the system with respect to the death of a member while on approved leave of absence by amendment to this section enacted during the 1965 Regular Session shall extend to death of members occurring on or after July 1, 1964, and to any benefit for which there would have been liability with respect to such death had such amendment been effective on that date.

SEC. 10. Section 21361.1 is added to the Government Code, to read:

21361.1. For the purposes of the computations required by subdivision (b) or (c) of Section 21361, the annual compensation earnable by a person in partial service retirement shall be deemed the amount of annual compensation the person would have received had the person been employed on a full-time basis.

SEC. 11. Section 21365.51 is added to the Government Code, immediately following Section 21365.5, to read:

21365.51. Section 21365.5 shall apply to any member while in state service in partial service retirement.

SEC. 11.5. Section 75095.5 is added to the Government Code, to read:

75095.5. Any judge who became a municipal court judge on May 23, 1980, may elect to come within the provisions of this article on or before November 30, 1983.

Any person so electing who was previously eligible to come within this article and did not do so, shall pay all of the contributions he would have made pursuant to Section 75097 had he been covered by this article as soon as eligible therefor.

SEC. 12. Section 151.31 of Chapter 323 of the Statutes of 1983 is amended to read:

Sec. 151.31. The provisions of the following memoranda of understanding prepared pursuant to Section 3517.5 of the Government Code and entered into by the state employer and the following employee organizations on the dates listed below, which require the expenditure of funds, are hereby approved for the purposes of Section 3517.6 of the Government Code:

(a) Unit 1—California State Employees' Association, dated September 7, 1983.

(b) Unit 2—Association of California State Attorneys, dated September 2, 1983.

(c) Unit 3—California State Employees' Association, dated September 7, 1983.

(d) Unit 4—California State Employees' Association, dated September 7, 1983.

(e) Unit 5—California Association of Highway Patrolmen, dated July 13, 1983.

(f) Unit 6—California Correctional Peace Officers Association, dated July 7, 1983.

(g) Unit 7—California Union of Safety Employees, dated September 8, 1983

(h) Unit 8—California Department of Forestry Employees' Association, dated June 30, 1983.

(i) Unit 9—Professional Engineers in California Government, dated September 13, 1983.

(j) Unit 10—California State Employees' Association, dated September 7, 1983.

(k) Unit 11—California State Employees' Association, dated September 7, 1983.

(*l*) Unit 12—California State Employees' Association, dated September 7, 1983.

(m) Unit 13—International Union of Operating Engineers, Stationary Engineers Division, dated June 30, 1983.

(n) Unit 14—California State Employees' Association, dated September 7, 1983.

(o) Unit 15—California State Employees' Association, dated September 7, 1983.

(p) Unit 16—Union of American Physicians and Dentists, dated June 30, 1983.

(q) Unit 17—California State Employees' Association, dated September 7, 1983.

(r) Unit 18—Communications Workers of America, dated August 18, 1983.

(s) Unit 19—American Federation of State, County and Municipal Employees, dated August 23, 1983.

(t) Unit 20—California State Employees' Association, dated September 7, 1983.

SEC. 13. Section 4.00 of Chapter 324 of the Statutes of 1983 is amended to read:

Sec. 4.00. Notwithstanding any other provisions of law, the employer's contributions for the 1983–84 fiscal year, which is chargeable to an appropriation made in this act, with respect to each state officer and employee or an annuitant who was in such employment or office, including an academic position with a California State University or College, or is a survivor of such person, or is an annuitant, shall be $76 for basic and related major medical plans with respect to employees or annuitants enrolled for self alone, or $148 for an employee or annuitant so enrolled for self and one family member, or $185 for an employee or annuitant so enrolled for self and two or more family members, or, if less, the amount necessary to pay the cost of such person's enrollment, including the enrollment of such person's family members, in a health benefits plan or plans.

SEC. 14. Section 9.65 of Chapter 324 of the Statutes of 1983 is

repealed.

SEC. 14.5. Notwithstanding Provision 1 of Item 1900-011-830 of the Budget Act of 1983, the final report to the Legislature on the study of the program, organizational, managerial, and staffing needs of the Public Employees' Retirement System shall be due on November 1, 1984, rather than July 1, 1984.

SEC. 15. The Public Employment Relations Board shall enter into a contract, pursuant to subdivision (f) of Section 3541.3 of the Government Code, to collect, analyze, and compare data on health benefits and cost containment in the public and private sectors, and to make recommendations concerning public employees. The recommendations may take into consideration health benefit cost containment issues in public and private employment. The cost of this contract shall not exceed forty thousand dollars ($40,000), and shall be expended from Item 8320-490 of the Budget Act of 1983.

SEC. 15.5. It is the intent of the Legislature that the phrase "up to $3,600 may be used to pay per diem and expenses for board members" as used in Item 2120-001-117 of the Budget Act of 1983, (Chapter 324, of the Statutes of 1983) dealing with the Alcoholic Beverage Control Appeals Board, means that up to three thousand six hundred dollars ($3,600) may be used to pay one hundred dollars ($100) per diem to each board member for each day spent in the discharge of official duties, which is a per diem separate from reimbursement for travel and other necessary expenses incurred in the performance of official duties. It is the intent of the Legislature that this interpretation be applied to per diem earned on and after July 1, 1983. This provision shall be operative until January 1, 1984, and on that date is repealed.

SEC. 15.7. Notwithstanding the reduction of one hundred sixty-three thousand dollars ($163,000) from the reimbursements authorized by Item 8380-001-001 (d) of the Budget Act of 1983 and the reduction of 4.6 analyst positions in the Department of Personnel Administration, the department is hereby authorized to reinstate those 4.6 analyst positions and to acquire the necessary funding therefor by a pro rata increase in the charges of the department to state agencies for actual and necessary costs incurred in negotiating and administering memoranda of understanding pursuant to Section 3517 and 3517.5.

SEC. 16. Sections 1.5, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of this act shall become operative on January 1, 1984.

SEC. 17. This act is an urgency statute necessary for the immediate preservation of 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 1983–84 fiscal year, it is necessary for this act to take effect immediately.

CHAPTER 1259

An act to amend Section 1373 of the Health and Safety Code, to amend Sections 10125, 10127, and 11512.5 of the Insurance Code, and to add Section 5600.5 to the Welfare and Institutions Code, relating to insurance.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child

is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of such services. A health care service plan that offers outpatient mental health services but does not cover such services in all of its group contracts shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law or, any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (1) any marriage, family, and child counselor who is the holder of a license under Section 17805 of the Business and Professions Code, or (2) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (3) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and

Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. Nothing in this section shall be construed to allow a member to select and obtain mental health or psychological or vision care services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan or specialized health care service plan to which the member belongs. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists. However, a failure of a plan or association to comply with the requirements of the preceding sentence shall not constitute a misdemeanor.

As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 U.S.C.).

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 1.5. Section 1373 of the Health and Safety Code is amended to read:

1373. (a) A plan contract may not provide an exception for other coverage where such other coverage is entitlement to Medi-Cal benefits under Chapter 7 (commencing with Section 14000) or Chapter 8 (commencing with Section 14200) of Part 3 of Division 9 of the Welfare and Institutions Code.

Each plan contract shall be interpreted not to provide an

exception for such Medi-Cal benefits.

A plan contract may not provide that the benefits payable thereunder are subject to reduction if the individual insured has entitlement to such Medi-Cal benefits.

(b) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for sterilization operations or procedures shall not impose any disclaimer, restriction on, or limitation of, coverage relative to the covered individual's reason for sterilization.

As used in this section, "sterilization operations or procedures" shall have the same meaning as that specified in Section 10120 of the Insurance Code.

(c) Every plan contract which provides coverage to family members or dependents of the subscriber or enrollee shall grant immediate accident and sickness coverage, from and after the moment of birth, to each newborn infant, and to each minor adopted child from and after the moment the child is placed in the custody of the adoptive parents for adoption, of any subscriber or enrollee covered. No such plan may be entered into or amended if it contains any disclaimer, waiver, or other limitation of coverage relative to the coverage or insurability of newborn infants of a subscriber or enrollee covered from and after the moment of birth or of minor adopted children from and after the moment the child is placed in the custody of the adoptive parents for adoption.

(d) Every plan contract which provides that coverage of a dependent child of a subscriber shall terminate upon attainment of the limiting age for dependent children specified in the plan, shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the subscriber for support and maintenance, provided proof of such incapacity and dependency is furnished to the plan by the member within 31 days of the request for such information by the plan or group plan contract holder and subsequently as may be required by the plan or group plan contract holder, but not more frequently than annually after the two-year period following the child's attainment of the limiting age.

(e) A plan contract which provides coverage, whether by specific benefit or by the effect of general wording, for both an employee and one or more covered persons dependent upon such employee and provides for an extension of such coverage for any period following a termination of employment of the employee shall also provide that such extension of coverage shall apply to dependents upon the same terms and conditions precedent as applied to the covered employee, for the same period of time, subject to payment of premiums, if any, as required by the terms of the policy and subject to any applicable collective-bargaining agreement.

(f) A group contract shall not discriminate against handicapped

persons or against groups containing handicapped persons. Nothing in this subdivision shall preclude reasonable provisions in a plan contract against liability for services or reimbursement of the handicap condition or conditions relating thereto, as may be allowed by rules of the commissioner.

(g) Every group contract shall set forth the terms and conditions under which subscribers and enrollees may remain in the plan in the event the group ceases to exist, the group contract is terminated or an individual subscriber leaves the group, or the enrollees' eligibility status changes.

(h) A health care service plan or specialized health care service plan may provide for coverage of, or for payment for, professional mental health services, or vision care services, or for the exclusion of such services. A health care service plan that offers outpatient mental health services but does not cover such services in all of its group contracts shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. No plan shall prohibit the member from selecting any psychologist who is licensed pursuant to the Psychology Licensing Law or, any optometrist who is the holder of a certificate issued pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, (1) any marriage, family and child counselor who is the holder of a license under Section 4980.50 of the Business and Professions Code, or (2) any licensed clinical social worker who is the holder of a license under Section 9040 of the Business and Professions Code, or (3) any registered nurse licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2 of the Business and Professions Code who possesses a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, at such time as the State Board of Registered Nurses produces and maintains a list of those psychiatric-mental health nurses who possess a master's degree in psychiatric-mental health nursing and two years of supervised experience in psychiatric-mental health nursing, to perform the particular services covered under the terms of the plan, such certificate holder being expressly authorized by law to perform such services. Nothing in this section shall be construed to allow any certificate holder or licensee enumerated in this section to perform professional mental health services beyond his or her field or fields of competence as established by his or her education, training and experience. For the purposes of this section, "marriage, family and child counselor" shall mean a licensed marriage, family and child counselor who has received specific instruction in assessment, diagnosis, prognosis, and counseling, and psychotherapeutic treatment of premarital, marriage, family and child relationship dysfunctions which is equivalent to the instruction required for licensure on January 1, 1981. Nothing in this section shall be

construed to allow a member to select and obtain mental health or psychological or vision care services from a certificate or license holder who is not directly affiliated with or under contract to the health care service plan or specialized health care service plan to which the member belongs. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists. However, a failure of a plan or association to comply with the requirements of the preceding sentence shall not constitute a misdemeanor.

As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 U.S.C.).

(i) If the plan utilizes arbitration to settle disputes, the plan contracts shall set forth the type of disputes subject to arbitration, the process to be utilized, and how it is to be initiated.

(j) A plan contract which provides benefits that accrue after a certain time of confinement in a health care facility shall specify what constitutes a day of confinement or the number of consecutive hours of confinement which are requisite to the commencement of benefits.

SEC. 2. Section 10125 of the Insurance Code is amended to read:

10125. On and after the effective date of this section, every insurer issuing group disability insurance which covers hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the group policyholder and the insurer. Every insurer shall communicate to prospective group policyholders as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every insurer shall communicate the availability of such coverage to all group policyholders and to all prospective group policyholders with whom they are negotiating.

SEC. 3. Section 10127 of the Insurance Code is amended to read:

10127. On and after the effective date of this section, every self-insured employee welfare benefit plan which provides coverage for hospital, medical, or surgical expenses shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the self-insured welfare benefit plan and the member. Every plan shall communicate to prospective members as to the availability of outpatient coverage for the treatment of mental or nervous disorders. Every self-insured welfare benefit plan shall communicate the availability of such coverage to all members and prospective members.

SEC. 4. Section 11512.5 of the Insurance Code is amended to read:

11512.5. On and after the effective date of this section, every nonprofit hospital service plan, including those plans issuing group hospital service contracts, which does not provide or arrange direct

health care services for its members, shall offer coverage for expenses incurred as a result of mental or nervous disorders, under such terms and conditions as may be agreed upon between the plan and the group contract holder. Every nonprofit hospital service plan, including those issuing group hospital service contracts, shall communicate the availability of such coverage to all group contract holders, and to all prospective group contract holders with whom they are negotiating. Every plan shall communicate to prospective group contract holders as to the availability of outpatient coverage for the treatment of mental or nervous disorders.

SEC. 5. Section 5600.5 is added to the Welfare and Institutions Code, to read:

5600.5. Local mental health directors shall make information about county operated or county contracted outpatient care programs for treatment of mental or nervous disorders available to insurers, hospital service plans, health care service plans, and similar entities, upon their request.

SEC. 5.5. Section 1.5 of this bill incorporates amendments to Section 1373 of the Health and Safety Code proposed by both this bill and AB 1856. It shall only become operative if (1) both bills are enacted and become effective on January 1, 1984, (2) each bill amends Section 1373 of the Health and Safety Code, and (3) this bill is enacted after AB 1856, in which case Section 1 of this bill shall not become operative.

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. 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 1260

An act to add Section 53075 to the Government Code, relating to transportation.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. The Legislature finds and declares the following:

(a) The orderly regulation of vehicular traffic on the streets and highways of California is essential to the welfare of the state and its people.

(b) Privately operated taxicab transportation service provides vital transportation links within the state and between the state and the people and economic systems of the nation and the world. Taxicab transportation service operated in the cities and counties enables the state to provide the benefits of privately operated, demand-responsive transportation services to its people and to persons who travel to California for business or tourist purposes.

(c) The economic viability and stability of privately operated taxicab transportation service is, consequently, a matter of statewide importance.

(d) The policy of this state is to promote safe and reliable privately operated taxicab transportation service in order to provide the benefits of that service. In furtherance of this policy, the Legislature recognizes and affirms that the regulation of privately operated taxicab transportation service is an essential governmental function.

SEC. 2. Section 53075 is added to the Government Code, to read:

53075. (a) Notwithstanding Chapter 8 (commencing with Section 5351) of Division 2 of the Public Utilities Code, every city or county shall protect the public health, safety, and welfare by adopting an ordinance or resolution in regard to taxicab transportation service rendered in vehicles designed for carrying not more than eight persons, excluding the driver, which is operated within the jurisdiction of the city or county.

(b) Each city or county shall provide for, but is not limited to providing for, the following:

(1) A policy for entry into the business of providing taxicab transportation service.

(2) The establishment or registration of rates for the provision of taxicab transportation service.

(c) Each city or county may levy service charges, fees, or assessments in an amount sufficient to pay for the costs of carrying out an ordinance or resolution adopted in regard to taxicab transportation services pursuant to this section.

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 1261

An act to amend Section 790.03 of the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION. 1. Section 790.03 of the Insurance Code is amended to read:

790.03. The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance.

(a) Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(b) 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 the business of insurance or with respect to any person in the conduct of his insurance business, 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.

(c) 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 unreasonable restraint of, or monopoly in, the business of insurance.

(d) 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, delivered to any person, or placed before the public any false statement of financial condition

of an insurer with intent to deceive.

(e) Making any false entry in any book, report or statement of any insurer 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 insurer 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 the business of such insurer in any book, report or statement of such insurer.

(f) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

This subdivision shall be interpreted, for any contract of ordinary life insurance or individual life annuity applied for and issued on or after January 1, 1981, to require differentials based upon the sex of the individual insured or annuitant in the rates or dividends or benefits, or any combination thereof. This requirement is satisfied if such differentials are substantially supported by valid pertinent data segregated by sex, including, but not necessarily limited to, mortality data segregated by sex.

However, for any contract of ordinary life insurance or individual life annuity applied for and issued on or after January 1, 1981, but before the compliance date, in lieu of such differentials based on data segregated by sex, rates or dividends or benefits, or any combination thereof, for ordinary life insurance or individual life annuity on a female life may be calculated as follows: (a) according to an age not less than three years nor more than six years younger than the actual age of the female insured or female annuitant, in the case of a contract of ordinary life insurance with a face value greater than five thousand dollars ($5,000) or a contract of individual life annuity; and (b) according to an age not more than six years younger than the actual age of the female insured, in the case of a contract of ordinary life insurance with a face value of five thousand dollars ($5,000) or less. "Compliance date" as used in this paragraph shall mean the date or dates established as the operative date or dates by future amendments to this code directing and authorizing life insurers to use a mortality table containing mortality data segregated by sex for the calculation of adjusted premiums and present values for nonforfeiture benefits and valuation reserves as specified in Sections 10163.5 and 10489.2 or successor sections.

Notwithstanding the provisions of this subdivision, sex based differentials in rates or dividends or benefits, or any combination thereof, shall not be required for (1) any contract of life insurance or life annuity issued pursuant to arrangements which may be considered terms, conditions, or privileges of employment as such terms are used in Title VII of the Civil Rights Act of 1964, as amended, and (2) tax sheltered annuities for employees of public

schools or of tax exempt organizations described in Section 501 (c) (3) of the Internal Revenue Code.

(g) 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 a named insurer, or named insurers, are members of the California Insurance Guarantee Association, or insured against insolvency as defined in Section 119.5. This subdivision shall not be interpreted to prohibit any activity of the California Insurance Guarantee Association or the commissioner authorized, directly or by implication, by Article 14.2 (commencing with Section 1063) of this chapter.

(h) Knowingly committing or performing with such frequency as to indicate a general business practice any of the following unfair claims settlement practices:

(1) Misrepresenting to claimants pertinent facts or insurance policy provisions relating to any coverages at issue.

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.

(3) Failing to adopt and implement reasonable standards for the prompt investigation and processing of claims arising under insurance policies.

(4) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss requirements have been completed and submitted by the insured.

(5) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

(6) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds, when such insureds have made claims for amounts reasonably similar to the amounts ultimately recovered.

(7) Attempting to settle a claim by an insured for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application.

(8) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured, his representative, agent, or broker.

(9) Failing, after payment of a claim, to inform insureds or beneficiaries, upon request by them, of the coverage under which payment has been made.

(10) Making known to insureds or claimants a practice of the insurer of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration

(11) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either, 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.

(12) Failing to settle claims promptly, where liability has become apparent, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(13) Failing to provide promptly a reasonable explanation of the basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement.

(14) Directly advising a claimant not to obtain the services of an attorney.

(15) Misleading a claimant as to the applicable statute of limitations.

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 United States Supreme Court decision in Arizona Governing Committee v. Norris, interpreting Title VII of the Civil Rights Act of 1964, became effective August 1, 1983. In order for life insurers to continue to offer insured benefits on an individual basis for persons affected by this decision in California, it is necessary that this act take effect immediately.

CHAPTER 1262

An act to add Article 4.6 (commencing with Section 1211) to Chapter 2 of Part 2 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Article 4.6 (commencing with Section 1211) is added to Chapter 2 of Part 2 of Division 1 of the Insurance Code, to read:

Article 4.6. Hedging

1211. Any domestic incorporated insurer, after investing an amount equal to its required minimum paid-in capital in securities specified in Article 3 (commencing with Section 1170), may invest

in bona fide hedging transactions and positions in interest rate futures contracts or options on interest rate futures contracts within the meaning of the Commodity Exchange Act (Chapter 1 (commencing with Section 1) of Title 7, United States Code) and traded on an exchange or board of trade regulated under that act.

(a) For purposes of this section "interest rate futures contracts" means contracts for future delivery, in accordance with the rules of the exchange or board of trade on which the contracts are traded, of obligations issued or guaranteed by the government of the United States or any agency or instrumentality thereof or certificates of deposit of banks or savings and loan associations the accounts of which are insured by an agency or instrumentality of the federal government. "Options on interest rate futures contracts," for purposes of this section, means put or call options, in accordance with the rules of the exchange or board of trade on which the options are traded, in interest rate futures contracts on obligations issued or guaranteed by the government of the United States or any agency or instrumentality thereof or certificates of deposit of banks or savings and loan associations the accounts of which are insured by an agency or instrumentality of the federal government.

(b) Interest rate futures contracts may be purchased when upon execution, (1) the futures contract is specifically identified with a liability or a group of liabilities or the insurer reasonably expects to acquire in the ordinary course of its business an asset or group of assets which, in each case, is identified in its records as being associated with such futures contract and (2) the futures contract has a positive correlation (prices tend to move in the same direction with reasonably similar magnitude) with the identified asset, liability or group of assets or liabilities.

Interest rate futures contracts may be sold when upon execution, (1) the futures contract is specifically identified with an asset or a group of assets or the insurer reasonably expects to incur in the ordinary course of its business a liability or group of liabilities which, in each case, is identified in its records as being associated with such futures contract and (2) the futures contract has a positive correlation (prices tend to move in the same direction with a reasonably similar magnitude) with the identified asset, liability or group of assets or liabilities.

(c) Put or call options on interest rate futures contracts may be purchased when upon execution, (1) the option and its related interest rate futures contract is specifically identified with an asset, liability or group of assets or liabilities or the insurer reasonably expects to acquire in the ordinary course of business an asset, liability or group of assets or liabilities which, in each case is identified in its records as being associated with such option and (2) the option and its related interest rate futures contract has a positive correlation (prices tend to move in the same direction with a reasonably similar magnitude) with the identified asset, liability or a group of assets or liabilities. An insurer may sell an exchange traded put or call option

on an interest rate futures contract only through an exchange and only for the purpose of a closing transaction. No other sales of options on interest rate futures contracts are authorized under this section.

(d) If an identified asset or liability or all of an identified group of assets or liabilities is sold or an expected identified asset or liability position is no longer expected to occur, the interest rate futures contract or option, or both, shall be closed out.

(e) Except with the prior approval of the commissioner, an investment shall not be made under the authority of subdivisions (b) and (c) if at the time of its making, the investment would result in an insurer hedging assets, liabilities or anticipated assets or liabilities in an amount exceeding 5 percent of admitted assets plus 100 percent of the amount of the investments in notes or bonds secured by a first mortgage or lien upon real property as determined by the last preceding annual statement filed with the commissioner. The term "notes or bonds secured by a first mortgage or lien upon real property" for purposes of this section means notes or bonds secured by a first mortgage or lien upon a real property containing a residence of one to four units or upon which a residence of one to four units is to be constructed and all bonds, debentures, certificates and notes set forth in Section 1100 and 1180.

A request to exceed the limitations contained herein shall be in writing and shall be deemed approved unless the commissioner disapproves it within 60 days after the request has been filed in the commissioner's office. The commissioner shall require the payment of a one thousand dollar ($1,000) fee for the determination of whether to approve or disapprove the request to exceed the limitations.

(f) An insurer shall not engage in hedging transactions and positions in interest rate futures contracts or options on interest rate futures contracts except pursuant to this section.

(g) The commissioner may establish criteria for, and prescribe procedures to be followed by insurers effecting transactions and positions pursuant to this section.

1212. This article shall be known and may be cited as the Insurance Company Investment Act of 1983.

CHAPTER 1263

An act to amend Sections 65913.3, 65923, 65923.5, and 65942 of, to add Sections 65922.3, 65922.5, 65922.7, 65923.8, 65941.5, 65945, 65945.3, 65945.5, and 65945.7 to, and to repeal Article 6 (commencing with Section 65050) of Chapter 1.5 of Division 1 of Title 7 of, the Government Code, and to add Section 25616 to the Public Resources Code, relating to development projects, and making an appropriation therefor.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Article 6 (commencing with Section 65050) of Chapter 1.5 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 2. Section 65913.3 of the Government Code is amended to read:

65913.3. Every city, county, or city and county shall provide for coordination of review and decisionmaking and the provision of information regarding the status of all applications and permits for residential, commercial, and industrial developments, as required by such city, county, or city and county, by a single administrative entity. The city, county, or city and county may charge fees to defray costs which are directly attributable to the coordination of an application of a developer by a single administrative entity.

For the purposes of this section, "administrative entity" means a person or agency designated by the legislative body of the city, county, or city and county to coordinate the review and decisionmaking and provide information regarding the status of all permits or applications required by the local agency.

A city, county, or city and county may adopt, by resolution or ordinance, procedures for the implementation of this section by the designated administrative entity.

SEC. 3. Section 65922.3 is added to the Government Code, to read:

65922.3. The Office of Permit Assistance is hereby created in the Office of Planning and Research. The office succeeds to, and is vested with, all of the duties, purposes, and responsibilities required to be performed by the Office of Planning and Research pursuant to former Article 6 (commencing with Section 65050) of Chapter 1.5 of Division 1 of Title 7 of the Government Code. The office shall develop guidelines to provide technical assistance to counties and cities in establishing and operating an expedited development permit process. The guidelines shall include, but not be limited to, all of the following elements of a local permit process:

(a) A central contact point with a public agency where all permit applications can be filed and information on all permit requirements can be obtained.

(b) A referral process to (1) refer the applicant to the appropriate functional area for resolution of problems and fulfillment of requirements, (2) refer the applicant to cities within the county in whose sphere of influence the proposed project lies for review, comment, or imposition of condition permits, (3) assign an individual from the local government to be responsible for guiding the application through all local permit bodies, or (4) include any combination of the above.

(c) A master permit document which covers permits for all functional areas and which could be used for obtaining the approvals of the various functional areas.

(d) A method of tracking progress on various permit applications, which may include identifying a staff person responsible for monitoring permits.

(e) A determination as to completeness of the master permit document upon its submission and a written statement of specific information that is missing, if any.

(f) Timetables for action on individual permits.

(g) An expedited appeal process to assure fair treatment to the applicant using existing agencies, staffs, commissions or boards, where possible.

(h) A variety of administrative mechanisms that will describe the least costly approaches for implementation in a variety of local circumstances.

In developing the guidelines, local variations in population rate of growth, types of proposed development projects, geography and differences in local government structure shall be recognized.

SEC. 4. Section 65922.5 is added to the Government Code, to read:

65922.5. The guidelines established by the Office of Permit Assistance pursuant to Section 65922.3 shall be advisory in nature and in no way shall they constitute a mandate upon cities and counties to take any of the actions contained therein.

SEC. 5. Section 65922.7 is added to the Government Code, to read:

65922.7. Subject to the availability of funds appropriated therefor, the Office of Permit Assistance shall provide technical assistance and grants-in-aid to assist counties and cities in establishing an expedited permit process pursuant to Section 65922.3. Any city or county receiving such a grant shall enact an expedited permit process within 10 months of the date of receipt. Nothing in this section or Section 65922.3 shall in any way preclude a county or city from establishing an expedited permit process pursuant to a procedure established solely by that county or city. If the office has adopted guidelines pursuant to Section 65922.3 and a county or city has established an expedited permit process pursuant to its own procedures, in all cases the process established by the city or county shall prevail over conflicting provisions of the guidelines.

SEC. 6. Section 65923 of the Government Code is amended to read:

65923. The Office of Permit Assistance shall provide information to developers explaining the permit approval process at the state and local level. The office shall ensure that all state agencies comply with applicable requirements of this chapter.

SEC. 7. Section 65923.5 of the Government Code is amended to read:

65923.5. (a) The Office of Permit Assistance may call a

conference of parties to resolve questions or mediate disputes arising from permit applications on any proposed development project.

(b) The office shall assist state and local agencies in an attempt to streamline the permit approval process at the state and local level.

(c) The office shall provide information to developers to assist them in meeting the requirements of the California Environmental Quality Act, Division 13 (commencing with Section 21000) of the Public Resources Code.

SEC. 8. Section 65923.8 is added to the Government Code, to read:

65923.8. Any state agency which is the lead agency for a development project shall inform the applicant for a permit that the Office of Permit Assistance has been created in the Office of Planning and Research to assist, and provide information to, developers relating to the permit approval process.

SEC. 9. Section 65941.5 is added to the Government Code, to read:

65941.5. Each local agency shall notify applicants for development permits of the time limits established for the review and approval of development permits pursuant to Article 3 (commencing with Section 65940) and Article 5 (commencing with Section 65950). The local agency may charge applicants a reasonable fee not to exceed the amount reasonably necessary to provide the service required by this section. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

SEC. 10. Section 65942 of the Government Code is amended to read:

65942. The information and the criteria specified in Sections 65940, 65941, 65941.5 shall be revised as needed so that they shall be current and accurate at all times.

SEC. 11. Section 65945 is added to the Government Code, to read:

65945. (a) At the time of filing an application for a development permit with a city or county, the city or county shall inform the applicant that he or she may make a written request to receive notice from the city or county of a proposal to adopt or amend any of the following plans or ordinances:

(1) A general plan.

(2) A specific plan.

(3) A zoning ordinance.

(4) An ordinance affecting building permits or grading permits.

The applicant shall specify, in the written request, the types of proposed action for which notice is requested. Prior to taking any of those actions, the city or county shall give notice to any applicant who has requested notice of the type of action proposed and whose development project is pending before the city or county if the city or county determines that the proposal is reasonably related to the applicant's request for the development permit. Notice shall be given only for those types of actions which the applicant specifies in

the request for notification.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this subdivision, the fee shall be collected as part of the application fee charged for the development permit.

(b) As an alternative to the notification procedure prescribed by subdivision (a), a city or county may inform the applicant at the time of filing an application for a development permit that he or she may subscribe to a periodically updated notice or set of notices from the city or county which lists pending proposals to adopt or amend any of the plans or ordinances specified in subdivision (a), together with the status of the proposal and the date of any hearings thereon which have been set.

Only those proposals which are general, as opposed to parcel-specific in nature, and which the city or county determines are reasonably related to requests for development permits, need be listed in the notice. No proposal shall be required to be listed until such time as the first public hearing thereon has been set. The notice shall be updated and mailed at least once every six weeks; except that a notice need not be updated and mailed until a change in its contents is required.

The city or county may charge the applicant for a development permit, to whom notice is provided pursuant to this subdivision, a reasonable fee not to exceed the actual cost of providing that notice, including the costs of updating the notice, for the length of time the applicant requests to be sent the notice or notices.

SEC. 12. Section 65945.3 is added to the Government Code, to read:

65945.3. At the time of filing an application for a development permit with a local agency, other than a city or county, the local agency shall inform the applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a rule or regulation affecting the issuance of development permits.

Prior to adopting or amending any such rule or regulation, the local agency shall give notice to any applicant who has requested such notice and whose development project is pending before the agency if the local agency determines that the proposal is reasonably related to the applicant's request for the development permit.

The local agency may charge the applicant for a development permit, to whom notice is provided pursuant to this section, a reasonable fee not to exceed the actual cost of providing that notice. If a fee is charged pursuant to this section, the fee shall be collected as part of the application fee charged for the development permit.

SEC. 13. Section 65945.5 is added to the Government Code, to read:

65945.5. At the time of filing an application for a development permit with a state agency, the state agency shall inform the

applicant that he or she may make a written request to receive notice of any proposal to adopt or amend a regulation affecting the issuance of development permits and which implements a statutory provision.

Prior to adopting or amending any such regulation, the state agency shall give notice to any applicant who has requested such notice and whose development project is pending before the state agency if the state agency determines that the proposal is reasonably related to the applicant's request for the development permit.

SEC. 14. Section 65945.7 is added to the Government Code, to read:

65945.7. No action, inaction, or recommendation regarding any ordinance, rule, or regulation subject to this Section 65945, 65945.3, or 65945.5 by any legislative body, administrative body, or the officials of any state or local agency shall be held void or invalid or be set aside by any court on the ground of any error, irregularity, informality, neglect or omission (hereinafter called "error") as to any matter pertaining to notices, records, determinations, publications or any matters of procedure whatever, unless after an examination of the entire case, including evidence, the court shall be of the opinion that the error complained of was prejudicial, and that by reason of such error the party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error had not occurred or existed. There shall be no presumption that error is prejudicial or that injury was done if error is shown.

SEC. 15. Section 25616 is added to the Public Resources Code, to read:

25616. It is the intent of the Legislature to encourage local agencies to expeditiously review permit applications to site energy projects, and to encourage energy project developers to consider all cost-effective and environmentally superior alternatives that achieve their project objectives. Subject to the availability of funds appropriated therefor, the commission shall provide technical assistance and grants-in-aid to assist local agencies to site energy production or transmission projects which are not otherwise subject to the provisions of Chapter 6 (commencing with Section 25500). The commission shall provide assistance at the request of local agencies and shall coordinate that assistance with the assistance provided by the Office of Permit Assistance, created pursuant to Section 65922.3.

As used in this section, an energy project is any project designed to produce, convert, or transmit energy as one of its primary functions.

SEC. 16. The Legislative Analyst shall conduct a study and report to the Legislature on January 1, 1987, with respect to whether the Office of Permit Assistance in the Office of Planning and Research has effectively streamlined the development permit process pursuant to Chapter 4.5 (commencing with Section 65920) of

Division 1 of Title 7 of the Government Code.

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 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. 18. Notwithstanding Section 40182 of the Revenue and Taxation Code, the sum of one hundred thousand dollars ($100,000) is hereby appropriated from the Energy Resources Programs Account, created pursuant to Section 25801 of the Public Resources Code, to the State Energy Resources Conservation and Development Commission to carry out the provisions of Section 25616 of the Public Resources Code during the 1983–84 fiscal year.

CHAPTER 1264

An act to add Division 22 (commencing with Section 32000) to the Public Resources Code, relating to waterfront restoration, and making an appropriation therefor.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Division 22 (commencing with Section 32000) is added to the Public Resources Code, to read:

DIVISION 22. CALIFORNIA URBAN WATERFRONT AREA RESTORATION FINANCING AUTHORITY ACT

CHAPTER 1. GENERAL PROVISIONS AND DEFINITIONS

Article 1. General Provisions

32000. This division shall be known and may be cited as the California Urban Waterfront Area Restoration Financing Authority Act.

32001. The Legislature finds and declares that it is essential that the state, in cooperation with local governments, use all practical means and measures to restore, revitalize, and develop, in an economically and environmentally sound manner, the coastal and inland urban waterfront areas of the state.

The Legislature further finds that existing conditions in some of the state's coastal urban waterfront areas prevent the attainment of one or more of the basic goals of the state set forth in Section 30001.5

for the coastal zone, and that existing sources of funding are not adequate to restore these areas in accordance with those goals.

The Legislature further finds that properly planned development of coastal and inland urban waterfronts with public recreation facilities, shoreline access facilities, visitor-serving commercial facilities, or coastal-dependent facilities, or with public works necessary for the implementation or preservation of an urban waterfront project, will promote attainment of the basic goals of the state for the coastal zone and will stimulate economic development and promote employment in coastal and inland urban waterfront areas.

32002. As to urban waterfront areas in the coastal zone, the purpose of this division is to carry out and make effective Chapter 7 (commencing with Section 31300) of Division 21 and, to that end, provide an economically feasible method of financing urban waterfront restoration.

32003. This division is necessary for the welfare of the state and its inhabitants and shall be liberally construed to implement its purposes.

Article 2. Definitions

32020. Unless the context otherwise requires, the definitions in this article govern the interpretation of this division.

32021. "Authority" means the California Urban Waterfront Area Restoration Financing Authority established pursuant to Section 32050, and any board, commission, department, or officer succeeding to the functions thereof or to whom the powers conferred upon the authority by this division shall be given.

32022. "Bonds" means bonds, notes, bond anticipation notes, commercial paper, and any other evidences of indebtedness.

32023. "Coastal zone" means that area defined in subdivision (a) of Section 31006.

32024. "Conservancy" means the State Coastal Conservancy established pursuant to Section 31100.

32025. "Cost," as applied to a project, or portion thereof, financed under this division, means all, or any part of, the costs of construction and acquisition of all lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a project, the cost of demolition or removal of any buildings or structures on land so acquired, including the cost of acquiring any lands on which buildings or structures may be removed, the cost of all machinery and equipment, financing charges, interest prior to, during, and for a period after completion of the construction, as determined by the authority, provisions for working capital, reserves for principal and interest, and for extensions, enlargements, additions, replacements, renovations, and improvements, the cost of architectural, engineering, financial, and legal services, plans, specifications, estimates, administrative expenses, and other

expenses necessary or incident to determining the feasibility of constructing any project, or incident to the construction or acquisition or financing of any project.

32025.5. "Metropolitan statistical area" means any area so defined by the federal Office of Management and Budget.

32026. "Participating party" means any public or private entity, profit or nonprofit, including, but not limited to, any municipality, county, district, joint powers agency, person, company, corporation, partnership, firm, trust, or foundation, engaged in a project within the State of California, which obtains financing pursuant to the terms of this division.

32027. "Project" means an urban waterfront restoration activity located wholly or partly within the coastal zone for which a plan of urban waterfront restoration has been approved pursuant to Section 32059 and an urban waterfront restoration activity located within the territory of the Sacramento-Yolo Port District, the Stockton Port District, or on a river, lake, or reservoir located within a metropolitan statistical area for which a plan of urban waterfront restoration has been approved pursuant to Section 32059.5. Project includes, but is not limited to, lands, buildings, or roads, and improvements thereto, work, rehabilitation, structure, or property, real or personal, located wholly or partly within the coastal zone or within the territory of the Sacramento-Yolo Port District, the Stockton Port District, or on a river, lake, or reservoir located within a metropolitan statistical area, providing or designed to provide visitor serving commercial facilities, transient visitor accommodations, coastal or inland waterfront dependent industry, public utility systems, mass transit facilities, and public recreation and shoreline access facilities, including, but not limited to, parks, stairways, piers, and wharves, boat berthing facilities, parking facilities, visitor service centers, or interpretive center and shoreline protection and erosion control facilities. Project does not include new permanent residential structures, office structures, noncoastal dependent industrial facilities, or other noncoastal related uses, or industrial facilities or other uses that are unrelated to an inland waterfront.

32028. "Revenue" means all rents, receipts, purchase payments, loan repayments, proceeds of bonds, and all other income or receipts derived by the authority from the sale, lease, or other disposition of projects, or the making of loans to finance projects, and any income derived from the investment of any money in any fund or account of the authority.

CHAPTER 2. ORGANIZATION OF THE AUTHORITY: GENERAL POWERS AND DUTIES

32050. (a) There is in state government the California Urban Waterfront Area Restoration Financing Authority. The authority constitutes a public instrumentality and a political subdivision of the State of California, and the exercise by the authority of powers

conferred by this division is the performance of an essential public function.

(b) The authority shall consist of five members, the Director of Finance, the Controller, the Treasurer, the Secretary of the Resources Agency, and the executive director of the conservancy. The Treasurer shall serve as chairman of the authority.

(c) Each of the members of the authority may select a designee from the member's agency to act for the member and represent the member at all meetings of the authority.

(d) The first meeting of the authority shall be convened by the Treasurer.

32051. All members shall serve thereon without compensation as members of the authority.

32052. This division shall be administered by the authority which shall have, and is hereby vested with, all powers reasonably necessary to carry out its powers and responsibilities.

32053. The authority shall maintain an office in the City of Sacramento.

32054. The chairman shall appoint an executive director who shall not be a member of the authority and who shall serve at the pleasure of the authority and shall employ the staff of the conservancy and other necessary persons to enable the authority to properly perform the duties imposed upon it by this division. The executive director shall receive compensation as fixed by the authority.

32055. The authority shall, 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, adopt the necessary rules and regulations to carry out this division.

32056. (a) The Attorney General shall be the legal counsel for the authority, but, upon approval of the Attorney General, which approval shall not be unreasonably withheld, the authority may employ legal counsel as, in its judgment, is necessary or advisable to enable it to carry out the duties and functions imposed on it by this division, including employment of bond counsel as deemed advisable in connection with the issuance and sale of bonds.

(b) The Director of Finance shall be the treasurer of the authority.

32057. Subject to the conditions, restrictions, and limitations of Section 32059, the authority shall have the power to do all the following:

(a) Adopt bylaws for the regulation of its affairs and the conduct of its business.

(b) Adopt an official seal.

(c) Sue and be sued in its own name.

(d) Issue bonds, including, at the option of the authority, bonds bearing interest that is taxable for the purpose of federal income taxation, to pay the cost of any project.

(e) Engage the services of private consultants to render

professional and technical assistance and advice in carrying out the purposes of this division.

(f) Employ and fix compensation of bond counsel, project expediters, financial consultants, and other advisors as may be necessary, in its judgment, in connection with the issuance and sale of any bonds or other obligations of the authority.

(g) Contract for engineering, architectural, accounting, or other services of appropriate state agencies as may be necessary, in its judgment, for the successful development of the project.

(h) Pay the reasonable costs of consulting engineers, architects, accountants, and construction, land use, recreation, and environmental experts employed by any participating party if, in its judgment, those services are necessary for the successful development of the project.

(i) Take title to, and sell by installment sale or otherwise, lands, structures, property, real or personal, rights, rights-of-way, franchises, easements, and other interests in lands which are located within the state as it may deem necessary or convenient for the financing of a project, upon terms and conditions as considered by it to be reasonable.

(j) Receive and accept from any source, loans, contributions, or grants for, or in aid of, the construction, financing, or refinancing of a project, or any portion thereof, in either money, property, labor, or other things of value.

(k) Make secured or unsecured loans to any participating party in connection with the financing of a project in accordance with an agreement between the authority and the participating party, except that no loan shall exceed the total cost of the project as determined by the participating party and approved by the authority.

(*l*) Make secured or unsecured loans to any participating party in accordance with an agreement between the authority and the participating party to refinance indebtedness incurred by the participating party in connection with projects undertaken and completed.

(m) Mortgage all or any portion of its interest in a project and the property on which any project is located, whether owned or thereafter acquired, including the granting of a security interest in any property, tangible or intangible, and to assign or pledge all or any portion of its interests in mortgages, deeds of trust, indentures of mortgage or trust or similar instruments, notes, and security interests in property, tangible or intangible, of participating parties to which the authority has made loans, and the revenues therefrom, including payment or income from any interest owned or held by the authority, for the benefit of the holders of bonds issued to finance the project.

(n) Lease to a participating party the project being financed, upon terms and conditions that the authority deems proper, and to charge and collect rents therefor, and to terminate any lease upon

the failure of the lessee to comply with any of the obligations thereof, and to include in any lease, if desired, provisions that the lessee shall have options to renew the lease for a period or periods, and at rents as determined by the authority, to purchase any or all of the project, or that, upon payment of all of the indebtedness incurred by the authority for the financing of the project, the authority may convey any or all of the project to the lessee or lessees.

(o) Charge and equitably apportion among participating parties its administrative costs and expenses incurred in the exercise of the powers and duties conferred by this division.

(p) Obtain, or aid in obtaining, from any department or agency of the United States or of the State of California, or any private company, any insurance or guarantee as to, or for, the payment or repayment of interest or principal, or both, or any part thereof, on any loan, lease, or obligation or any instrument evidencing or securing the same, made or entered into pursuant to this division; and, notwithstanding any other provision of this division, to enter into any agreement, contract, or any other instrument with respect to any insurance or guarantee, to accept payment in the manner and form as provided therein in the event of default by a participating party, and to assign any insurance or guarantee as security for the authority's bonds.

(q) Enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly given in this division.

(r) Invest any moneys held in reserve or sinking funds, or any moneys not required for immediate use or disbursement, at the discretion of the authority, in obligations that are authorized by law for the investment of trust funds in the custody of the Treasurer.

32058. The authority shall establish criteria for the selection of projects to receive financial assistance from the authority. The project selection criteria shall be based upon the economic soundness of the project itself and that all financial obligations of the project can and will be met by participating parties.

32059. (a) No project located wholly or partially within the coastal zone shall be eligible for approval unless it has been approved by the conservancy and is located in a part of the coastal zone for which a plan for urban waterfront restoration has been approved by the conservancy pursuant to Chapter 7 (commencing with Section 31300) of Division 21.

(b) The conservancy shall approve a plan for the purposes of utilizing the financing provisions of this division only if it finds both of the following:

(1) Existing conditions prevent the attainment of one or more of the basic goals of the state for the coastal zone, as identified in Section 30001.5.

(2) The proposed plan provides for public access or public recreation benefits, environmental enhancement, and has a

potential for employment development and economic stimulation.

32059.5. (a) No project located within the territory of the Sacramento-Yolo Port District, the Stockton Port District, or on a river, lake, or reservoir within a metropolitan statistical area shall be eligible for approval unless it has been approved by the conservancy and a plan for urban waterfront restoration has been approved by the conservancy.

(b) The conservancy shall approve a plan for the purposes of utilizing the financing provisions of this division for projects specified in subdivision (a) only if it finds that the proposed plan provides for public access or public recreational benefits, provides for environmental enhancement, and has a potential for employment development and economic stimulation.

(c) Fifty million dollars ($50,000,000) shall be reserved for projects on a river, lake, or reservoir in a metropolitan statistical area.

CHAPTER 3. FUNDS: SECURITY FOR PAYMENT OF BONDS: ACCOUNTS: DEPOSITS: INVESTMENTS: INTEREST AND OTHER INCREMENTS

32060. (a) The California Urban Waterfront Area Restoration Financing Authority Fund is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are continuously appropriated to the authority for carrying out the purposes of this division.

The authority may pledge any or all of the moneys in the fund as security for payment of the principal of, and interest on, any particular issuance of bonds issued pursuant to this division, and, for that purpose, or as necessary or convenient to the accomplishment of any other purpose of the authority, may divide the fund into separate accounts. All moneys accruing to the authority pursuant to this division from any source shall be deposited in the fund.

(b) Subject to priorities that may be created by the pledge of particular moneys in the fund to secure any issuance of bonds of the authority, and subject further to reasonable costs that may be incurred by the authority in administering the program authorized by this division, all moneys in the fund derived from any source shall be held in trust for the security and payment of bonds of the authority and shall not be used or pledged for any other purpose so long as the bonds are outstanding and unpaid. However, nothing in this section shall limit the power of the authority to make loans with the proceeds of bonds in accordance with the terms of the resolution authorizing the bonds.

(c) Pursuant to any agreements with the holders of particular bonds pledging any particular assets, revenues, or moneys, the authority may create separate accounts in the fund to manage assets, revenues, or moneys in the manner set forth in the agreements.

(d) The authority may, from time to time, direct the Treasurer to invest moneys in the fund which are not required for its current

needs, including proceeds from the sale of any bonds, in such eligible securities specified in Section 16430 of the Government Code as the authority shall designate. The authority may direct the Treasurer to deposit moneys in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The authority may alternatively require the transfer of moneys in the fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from the investment or deposit of moneys from the fund shall be deposited in the fund. Moneys in the fund shall not be subject to transfer to any other funds pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, except to the Surplus Money Investment Fund.

32061. All expenses incurred in carrying out this division shall be payable solely from funds provided under the authority of this division, and no liability or obligation shall be imposed upon the State of California and, except as provided in Section 32116, none shall be incurred by the authority beyond the extent to which money shall have been provided under this division. Under no circumstance shall the authority create any debt, liability, or obligation on the part of the State of California payable from any source other than the moneys provided under this division.

32062. All projects financed by the authority shall be constructed or completed subject to the rules and regulations of the authority.

32063. When the principal of, and interest on, bonds of the authority issued to finance the cost of a particular project for a participating party, including any refunding bonds issued to refund and refinance all or any part of the bonds, have been fully paid and retired, or when adequate provisions have been made for the payment and retirement of the bonds, and all other conditions of any resolution, lease, indenture, mortgage or deed of trust, security interest, or any other instrument or instruments authorizing and securing the bonds have been satisfied, and any lien created has been released in accordance with the provisions thereof, the authority is authorized, upon terms and conditions it may prescribe, to do all things and execute releases, release deeds, reassignments, deeds, and conveyances necessary or required to convey or release its right, title, and interest in the project financed and any other instruments pledged or transferred to secure bonds to the participating party.

32064. (a) The authority, or its executive director if authorized by resolution of the authority, shall take official action towards the issuance of bonds with respect to any participating party at the next meeting of the authority occurring more than 30 days following the receipt of a completed application. Official action towards the issuance of bonds may reserve the right of the authority to further review an application for financing and consider terms thereof prior

to the issuance of bonds therefor.

(b) The authority shall take final action to approve or disapprove the issuance of bonds to lend financial assistance to participating parties within 60 days from the receipt by the authority of a request from a participating party for action. Any request by a participating party shall be accompanied by evidence of fulfillment of any and all conditions to the issuance of the bonds imposed at the time the first action towards the issuance was taken by the authority and copies of forms of all principal legal documents to be approved by the authority.

(c) The authority may give final approval for the issuance of the bonds upon terms it deems necessary or desirable.

(d) Any action under this section shall be at the sole discretion of the authority.

32065. The authority, not later than March 1 of each year, shall submit to the Legislature a report of its activities for the preceding calendar year ending December 31. The report shall include a listing of applications received, a listing of applications accepted for financing, a specification of bonds sold, interest rates thereon, and whether bond sales were pursuant to public bid or were negotiated, a specification of the amount of bonds authorized but currently unsold, a projection of the authority's needs and requirements for the coming year, and a report of revenues and expenditures for the preceding fiscal year.

32066. The Treasurer is the elected representative of the state to approve the issuance of bonds issued by or on behalf of the state pursuant to this chapter to the extent this approval is required by federal tax law.

CHAPTER 4. BONDS AND NOTES

Article 1. General

32100. The total amount of bonds which may be outstanding at any one time under this division shall not exceed six hundred fifty million dollars ($650,000,000). Bonds for which moneys or securities in amounts necessary to pay or redeem the principal, interest, and any redemption premium thereon have been deposited in trust shall not be deemed outstanding for purposes of this section.

32101. The Legislature may, by statute, authorize the authority to issue bonds in excess of the amount specified in Section 32100.

32102. (a) The authority is authorized from time to time to issue its negotiable bonds to provide funds to achieve its purposes.

(b) Bonds may be authorized to finance a single project for a single participating party, a series of projects for a single participating party, a single project for several participating parties, or several projects for several participating parties.

32103. Except as otherwise expressly provided by the authority, every issue of its bonds shall be general obligations of the authority

payable from any revenues or moneys of the authority available therefor and not otherwise pledged, including the proceeds of additional bonds, subject only to any agreements with the holders of particular bonds, notes, or other obligations pledging any particular revenues or moneys and subject to any agreements with holders of particular bonds pledging any particular revenues. Notwithstanding that the bonds may be payable from a special fund, they shall be and deemed to be negotiable instruments for all purposes, subject only to the bond registration provisions.

32104. Subject to the limitations in Sections 32100 and 32101, the bonds may be issued as serial bonds or as term bonds, or the authority may, in its discretion, issue bonds of both types. The bonds shall be authorized by resolution of the authority and shall bear the date or dates, mature at the time or times, not exceeding 50 years from their respective dates, bear interest at the rate or rates, be payable at the time or times, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in lawful money of the United States of America at the place or places, and be subject to the terms of redemption, as the resolution or resolutions provide.

32105. The bonds or notes shall be sold by the Treasurer within 60 days after receipt of a certified copy of the authority's resolution authorizing the sale of the bonds, except that the authority may, at its discretion, adopt a resolution extending the 60-day period. The sale may be a public or private sale, and for such price or prices and on such terms and conditions, as the authority determines, after giving due consideration to the recommendations of any participating party to be assisted from the proceeds of the bonds. Pending preparation of the definitive bonds, the Treasurer may issue interim receipts, certificates, or temporary bonds which shall be exchanged for definitive bonds. The Treasurer may sell any bonds at a price below the par value if the discount on any bonds sold does not exceed 6 percent of the par value.

32106. Any resolution or resolutions authorizing any bonds or any issue of bonds may contain the following provisions, which shall be a part of the contract with the holders of the bonds to be authorized:

(a) Pledging the full faith and credit of the authority, or pledging all or any part of the revenues of any urban waterfront restoration project or any revenue-producing contract or contracts made by the authority with any individual, partnership, corporation, or association or other body, public or private, or other moneys of the authority, to secure the payment of the bonds or of any particular issue of bonds, subject to those agreements with bondholders as may then exist.

(b) The rentals, fees, purchase payments, loan repayments, and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues.

(c) The setting aside of reserves or sinking funds, and the regulation and disposition thereof.

(d) Limitations on the right of the authority or its agent to restrict and regulate the use of the project or projects to be financed out of the proceeds of the bonds or any particular issue of bonds.

(e) Limitations on the purpose to which the proceeds of sale of any issue of bonds then or thereafter to be issued may be applied, and pledging the proceeds to secure the payment of the bonds or any issue of the bonds.

(f) Limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds.

(g) The procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds and the holders thereof that are required to give consent thereto, and the manner in which the consent may be given.

(h) Limitations on expenditures for operating, administrative, or other expenses of the authority.

(i) Defining the acts or omissions to act which constitute a default in the duties of the authority to holders of its obligations, and providing the rights and remedies of the holders in the event of a default.

(j) The mortgaging of any project and the site thereof for the purpose of securing the bondholders.

(k) The mortgaging of land, improvements, or other assets owned by a participating party for the purpose of securing the bondholders.

(*l*) Procedures for the selection of projects to be financed with the proceeds of the bonds authorized by the resolution, if the bonds are to be sold in advance of the designation of the projects and the participating parties to receive the financing.

32107. Neither the members of the authority nor any person executing the bonds or notes shall be liable personally on the bonds or notes or be subject to any personal liability or accountability by reason of the issuance thereof.

32108. The authority may, out of any funds available therefor, purchase its bonds or notes. The authority may hold, pledge, cancel, or resell the bonds, subject to and in accordance with agreements with bondholders.

32109. In the discretion of the authority, any bonds issued under this division may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be the Treasurer or any trust company or bank having the powers of a trust company within or without the state.

32110. (a) The trust agreement or the resolution providing for the issuance of the bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledge and may convey or mortgage the project or projects, or any portion thereof, to be financed out of the proceeds of the bonds. The trust agreement or resolution providing for the issuance of the bonds may contain the provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in

violation of law, including particularly provisions specifically authorized to be included in any resolution or resolutions of the authority authorizing bonds thereof.

(b) Any bank or trust company doing business under the laws of this state which may act as depository of the proceeds of bonds or of revenues or other moneys may furnish indemnifying bonds or pledge securities as may be required by the authority.

(c) The trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action by bondholders. In addition, any trust agreement or resolution may contain other provisions that the authority may deem reasonable and proper for the security of the bondholders.

32111. Notwithstanding any other provision of law, the Treasurer shall not be deemed to have a conflict of interest by reason of acting as trustee pursuant to this division.

32112. All expenses incurred in carrying out the provisions of this trust agreement or resolution may be treated as a part of the cost of the operation of a project.

32113. Bonds issued under this division do not constitute a debt or liability of the state or of any political subdivision thereof, other than the authority, or a pledge of the full faith and credit of the state or any of its political subdivisions, other than the authority, but are payable solely from the funds provided therefor under this division. All the bonds shall contain on the face thereof a statement to the following effect:

"Neither the full faith and credit nor the taxing power of the State of California is pledged to the payment of the principal of or interest on this bond."

The issuance of bonds under this division shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. Nothing in this section shall prevent, or be construed to prevent, the authority from pledging its full faith and credit to the payment of bonds or issue of bonds authorized pursuant to this division.

32114. (a) The authority may provide for the issuance of bonds of the authority for the purpose of refunding any bonds, notes, or other securities of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or subsequent date of redemption, purchase, or maturity of these bonds and, if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of an urban waterfront restoration project or any portion thereof.

(b) The proceeds of any bonds issued for the purpose of refunding outstanding bonds, notes, or other securities may, in the discretion of the authority, be applied to the purchase or retirement at maturity

or redemption of these outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or retirement at the maturity thereof and may, pending the application, be placed in escrow to be applied to the purchase or retirement at maturity or redemption on the date as may be determined by the authority.

(c) Pending this use, the escrowed proceeds may be invested and reinvested by the Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing at time or times appropriate to assure the prompt payment, as to principal, interest, and redemption premium, if any, of the outstanding bonds to be so refunded. The interest, income, and profits, if any, earned or realized on the investment may also be applied to the payment of the outstanding bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of the proceeds and interest, income, and profits, if any earned or realized on the investments thereof, shall be returned to the authority and the conservancy for use in carrying out this division.

(d) The portion of the proceeds of the bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions, or enlargements of an urban waterfront restoration project may be invested and reinvested by the Treasurer in obligations of, or guaranteed by, the United States of America, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States of America, maturing not later than the time or times when these proceeds will be needed for the purpose of paying all or any part of the cost. The interest, income and profits, if any earned or realized on this investment, may be applied to the payment of all or any part of the cost or may be used by the authority and the conservancy in carrying out this division.

(e) All these bonds are subject to this division in the same manner and to the same extent as other bonds issued pursuant to the provisions of this division.

32115. Bonds issued by the authority are legal investments for all trust funds, the funds of all insurance companies, banks, both commercial and savings, trust companies, savings and loan associations, and investment companies, for executors, administrators, trustees, and other fiduciaries, for state school funds, and for any funds which may be invested in county, municipal, or school district bonds, and these bonds are securities which may properly and legally be deposited with, and received by, any state or municipal officer or agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state, is now, or may hereafter be, authorized by law, including deposits to secure public funds if, and only to the extent that, evidence of indebtedness or debt securities of the participating party receiving financing through the issuance of these bonds which qualify or are

eligible for these purposes and uses.

32116. No liability shall be incurred by the authority beyond the extent to which moneys have been provided under this division, except that, for the purposes of meeting the necessary expenses of initial organization and operation until the date that the authority derives revenues or proceeds from bonds or notes as provided under this division, the authority may borrow money as needed for these expenses from the General Fund in the State Treasury. The borrowed money shall be repaid with interest within a reasonable time after the authority receives revenues or proceeds from bonds or notes as provided under this division.

Article 2. Supplemental Bond Provisions

32150. The authority is not required to pay any property taxes or assessments upon, or with respect to, an urban waterfront restoration project or any property acquired by or for the authority under this division or upon the income therefrom, so long as the authority holds title to the project or to the property or facilities comprised in the project.

The exemption of the authority from taxation of any project ceases when title to the property is transferred from the authority to any normally taxable participating party. This section does not exempt any normally taxable participating party from taxation, including, but not limited to, taxation upon a possessory interest, with respect to any project, or the property or facilities comprised in any project, which may otherwise be applicable to the participating party.

32151. Subject to Section 32153, the existence of the authority may be terminated by statute at any time by the Legislature. Upon dissolution of the authority, the title to all properties owned by it shall, subject to the interests of any participating parties therein, vest in and become the property of the State of California and shall not inure to the benefit of any private party.

32152. This division provides a complete, additional, and alternative method for the doing of the things authorized thereby, and shall be regarded as supplemental and additional to powers conferred by other laws, except that the issuance of bonds and refunding bonds under this division need not comply with the requirements of any other law applicable to the issuance of bonds.

32153. The State of California does hereby pledge to, and agree with, the holders of any obligations issued under this division, and with those parties who may enter into contracts with the authority pursuant to this division, that the state will not limit or alter the rights hereby vested in the authority to finance any project and to fulfill the terms of any loan agreement, lease, or other contract with the authority pursuant to this division, or in any way impair the rights or remedies of the bonds or the parties until those obligations, together with the interest thereon, are fully met and discharged and those contracts are fully performed on the part of the authority. However,

nothing in this section precludes this limitation or alteration if and when adequate provision has been made by law for the protection of the holders of those obligations of the authority or those entering into those contracts with the authority. The authority, as agent for the state, is authorized to include this pledge and undertaking for the state in its obligations or contracts.

32154. The powers granted to the authority by this division may be exercised without regard or reference to any department or agency of the state. All other general or special laws, or parts thereof, inconsistent with this division are hereby declared to be inapplicable to the provisions of this division. Nothing in this division shall be interpreted to exempt the construction or acquisition of any urban waterfront restoration project by any participating party from compliance with all applicable local, state, or federal laws and regulations.

CHAPTER 4. CONSTRUCTION AND LEASES OF FACILITIES

32200. The authority may contract with any participating party for the construction of an urban waterfront restoration project by the participating party. All contracts for the construction of a project by a participating party shall provide that the participating party is responsible for the architectural and engineering design and for the construction and completion thereof, subject to the standards for architectural and engineering design as may be established, and subject to the supervision, as the conservancy and the authority deem necessary.

The authority may agree to pay the cost of the project constructed by any participating party and to advance the costs from time to time in installments or otherwise as required by the contract for the construction thereof. Title to all projects shall be vested in the authority, subject to the terms of any lease thereof to the participating party or the rights of a participating party under any contract for the purchase of the project, including the payment of the purchase price under installment sales contracts.

32201. The authority may, as lessor or lessee, enter into leases and agreements with any participating party relating to the acquisition, construction, and installation of any project, including real property, buildings, machinery, furnishings, equipment, and urban waterfront restoration facilities of any kind or character. The terms and conditions of these leases may be as mutually agreed upon. The lease may provide the means or methods by which title shall vest in a participating party upon the termination of the lease and shall contain other terms and conditions that the authority may determine.

The authority may fix, revise, charge, and collect rates, rents, fees, and charges for each project. These rates, rents, fees, and charges shall be fixed and adjusted with respect to the aggregate of rates, rents, fees, and charges from all projects so as to provide funds

sufficient with other revenues and moneys available therefor, if any, to do all of the following:

(a) Pay the principal of, and the interest on, outstanding bonds, notes, or other evidences of indebtedness of the authority issued with respect to the urban waterfront restoration project that become due and payable.

(b) Create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, the bonds. A sufficient amount of the revenues derived from a project may be set aside at regular intervals as may be provided in the resolution or trust agreement in a sinking or other similar fund which is hereby pledged to, and charged with, the payment of the principal of and interest on these bonds as they become due, and the redemption price or the purchase price of bonds retired by call or purchase as provided therein. The pledge shall be valid and binding from the time the pledge is made; the rates, rents, fees, and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the authority, regardless of whether the parties have notice thereof. The resolution or any trust agreement or any other agreement or any lease by which a pledge is created need not be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of the sinking or other similar fund shall be subject to the resolution authorizing the issuance of the bonds or of the trust agreement. Except as may otherwise be provided in the resolution or the trust agreement, the sinking or other similar fund may be a fund for all bonds of the authority issued to finance projects of a particular participating party without distinction or priority of one over another. However, the authority, in any resolution or trust agreement, may provide that the sinking or other similar fund shall be the fund for a particular project or projects and for the bonds issued to finance a particular project or projects and may, additionally, permit and provide for the issuance of bonds having a subordinate lien with respect to the security authorized for other bonds of the authority, and, in such case, the authority may create separate sinking or other similar funds with respect to the subordinate lien bonds.

(c) Pay the operating and administrative costs of the authority, and the operating and administrative expenses of the conservancy in carrying out its responsibilities under this division.

32202. The authority may enter into contracts of sale with any participating party covering any urban waterfront restoration project financed by the authority. The purchase price pursuant to the contract of sale shall be treated in substantially the same manner and shall be at least sufficient to provide funds for all the purposes specified in Section 32201 and may be paid in installments, together

with interest on the unpaid balance, or otherwise, as may be mutually agreed and set forth in the contract of sale.

All payments received by the authority under any installment sales or conditional sales contract shall be applied by the authority substantially in the same manner as in Section 32201 in the case of lease payments or rental charges received by the authority.

32203. As an alternative to leasing or selling an urban waterfront restoration project to a participating party, the authority may finance the acquisition, construction, or installation of a project by means of a loan to the participating party.

The principal amount of the participating party's obligation, as borrower, shall be sufficient to provide funds for all the purposes specified in subdivisions (a), (b), and (c) of Section 32201 and may be paid in installments, together with interest on the unpaid balance, or otherwise as may be mutually agreed by the authority and the participating party and set forth in the loan agreement. Loans made pursuant to this section may be secured or unsecured, in the discretion of the authority.

Section 32200 is not applicable to projects constructed with money loaned pursuant to this section.

32204. All moneys received pursuant to this division, whether as proceeds from the sale of bonds, notes, or other evidence of indebtedness or as revenues, are trust funds to be held and applied solely as provided in this division.

Any bank or trust company with which the moneys are deposited shall act as trustee of these moneys and shall hold and apply them for the purposes of this division, subject to the resolution authorizing the bonds of any issue or the trust agreements securing the bonds provide.

32205. Any holder of bonds, notes, or other obligations issued under this division or any of the coupons appertaining thereto, and the trustee or trustees under any trust agreement, except to the extent the rights herein given which may be restricted by any resolution authorizing the issuance of, or the trust agreement securing, the bonds, notes, or other obligations, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under the resolution or trust agreements, and may enforce and compel the performance of all duties required by this division or by the resolution or trust agreement to be performed by the authority or by any officer, employee, or agent thereof, including the fixing, charging, and collecting of the rates, rents, fees, and charges authorized by this division and required by the resolution or trust agreement to be fixed, established, and collected.

32206. The exercise of the powers granted by this division shall be in all respects for the benefit of the people of this state, for their health and welfare, and protection of the state's environment.

Any bonds, notes, or other obligations issued under this division, their transfer and the income therefrom, shall at all times be free

from taxation of every kind by the state and by municipalities and other political subdivisions of the state. However, the preceding sentence shall not apply with respect to any bonds, notes, or other obligations, or the income therefrom, for any period during which the bonds, notes, or other obligations are held by (1) Any normally taxable participating party, (2) persons, organizations, trades, or business, whether incorporated, organized in this state, or affiliated with a participating party, owned or controlled, directly or indirectly, by the participating party, or (3) persons, organizations, trades, or businesses, whether incorporated, organized in this state, or affiliated with the participating party, which own or control, directly or indirectly, the participating party.

32207. If the jurisdiction of the authority to order a proposed act is not affected, an omission of any officer or of the authority in the proceedings under this division or any other defect in the proceedings does not invalidate the proceedings for issuance of bonds pursuant to this division.

32208. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure to determine the validity of any issuance or proposed issuance of bonds under this division and the legality and validity of all proceedings previously taken or proposed in a resolution of the authority to be taken for the authorization, issuance, sale, and delivery of the bonds and for the payment of the principal thereof and interest thereon.

CHAPTER 1265

An act to amend Section 741 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. The Legislature hereby finds and declares that it is in the public interest that ammonia production in California be preserved because of its importance to California agriculture. Natural gas is the raw material out of which ammonia is made, and to preserve ammonia production in California, it is critical that the rates charged for natural gas used in the manufacture of ammonia be no higher than is necessary to compensate the gas corporation for providing that gas to the ammonia producers, including a reasonable rate of return.

The Legislature further finds and declares that the costs of preserving ammonia production in California should be borne on a statewide basis by an equitable charge on natural gas sales by gas

corporations within the state.

SEC. 2. Section 741 of the Public Utilities Code is amended to read:

741. (a) The rates for natural gas supplied for the manufacture of ammonia shall not exceed the the price paid by the gas corporation for its marginal gas supply, plus twenty cents ($.20) for each million British thermal units (Btu) of gas sold to an ammonia producer, except that the rates shall in no event be lower than the rates in effect on December 31, 1979. For purposes of this section, "marginal gas supply" means that amount of gas which a gas corporation would not purchase in the absence of providing service to those California ammonia producers which are provided that service by the gas corporation.

(b) If the commission determines that the difference in revenues collected by gas corporations on natural gas sales to ammonia producers pursuant to subdivision (a) and the revenues which the gas corporations would otherwise collect on natural gas sales to ammonia producers under the rates in effect on December 31, 1983 , is an amount that is less than the total revenues which gas corporations collect on natural gas sales to ammonia producers, the commission shall establish a rate recovery mechanism by placing a uniform surcharge on sales of natural gas to ratepayers by every gas corporation equal to this difference.

The commission shall distribute the amount of the surcharge collected to any gas corporation selling natural gas to an ammonia producer.

The commission shall require that any costs associated with the implementation of this subdivision shall be borne by the nonresidential natural gas service customer class, through a method to be determined by the commission.

(c) This section shall not apply to the sale of natural gas which is subject to the incremental pricing provisions of the federal Natural Gas Policy Act of 1978, (P.L. 95-621; 15 U.S.C. Sec. 3301 et seq.).

(d) It is the intent of the Legislature, in enacting this section, that those ammonia manufacturers purchasing natural gas under the provisions of this section shall continue to sell ammonia manufactured from that gas principally for California agricultural purposes and not for export.

(e) The commission shall prepare and submit to the Legislature on or before January 1, 1986, a report on the effects of the provisions of this section, including, but not limited to, the rates for gas charged to ammonia producers and changes in rates charged to other categories of gas customers by gas corporations as a result of carrying out this section

(f) 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.

CHAPTER 1266

An act to amend Section 2653 of, and to add Section 2653.5 to, the Unemployment Insurance Code, and to add Section 19005.5 to the Welfare and Institutions Code, relating to disability programs, and making an appropriation therefor.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 2653 of the Unemployment Insurance Code is amended to read:

2653. The maximum amount of benefits payable to an individual during any one disability benefit period shall be 52 times his or her weekly benefit amount, but in no case shall the total amount of such benefits payable be more than the total wages paid to the individual during his or her disability base period. If the benefit is not a multiple of one dollar ($1) it shall be computed to the next higher multiple of one dollar ($1).

This section shall apply to periods of disability commencing on or after January 1, 1984, but prior to January 1, 1987.

SEC. 2. Section 2653.5 is added to the Unemployment Insurance Code, to read:

2653.5. The maximum amount of benefits payable to an individual during any one disability benefit period shall be 39 times his or her weekly benefit amount, but in no case shall the total amount of such benefits payable be more than 75 percent of the total wages paid to the individual during his or her disability base period. If the benefit is not a multiple of one dollar ($1) it shall be computed to the next higher multiple of one dollar ($1).

This section shall apply to periods of disability commencing prior to January 1, 1984, and on or after January 1, 1987.

SEC. 3. Section 19005.5 is added to the Welfare and Institutions Code, to read:

19005.5. (a) The Department of Rehabilitation shall establish a program authorizing rehabilitation professionals serving industrially injured workers under the provisions of Labor Code Section 139.5 to refer clients to the Department of Rehabilitation for federal targeted jobs tax credit eligibility determination. The Department shall set forth the specific requirements, procedures, and eligibility criteria. The Department shall not be required to certify, for purposes of the federal targeted jobs tax credit, industrially injured workers who do not meet the eligibility requirements set forth in the federal Rehabilitation Act.

(b) The Department shall be authorized to collect a fee from the insurer or self-insured employer in the amount necessary to determine eligibility and to certify the industrially injured worker

for this program.

CHAPTER 1267

An act to add Section 22651.5 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 22651.5 is added to the Vehicle Code, to read:

22651.5. Any peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may, upon the complaint of any person, remove a vehicle parked within a residence district from a highway or from public or private property if an alarm device has been activated within the vehicle, the peace officer is unable to locate the owner of the vehicle within 45 minutes from the time of arrival at the vehicle's location, and the alarm device has not been silenced prior to removal.

Upon removal of a vehicle from a highway or from public or private property pursuant to this section, the peace officer ordering the removal shall immediately report the removal and the location to which the vehicle is removed to the Stolen Vehicle System of the Department of Justice.

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 1268

An act to add and repeal Chapter 3.5 (commencing with Section 15820) of Part 10b of Division 3 of Title 2 of the Government Code, relating to high technology.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Chapter 3.5 (commencing with Section 15820) is added to Part 10b of Division 3 of Title 2 of the Government Code, to read:

CHAPTER 3.5. HIGH TECHNOLOGY EDUCATIONAL AND RESEARCH FACILITIES IN PUBLIC UNIVERSITIES

Article 1. General Provisions

15820. The Legislature finds and declares that California's public colleges and universities, recognized as being among the world's finest, require assistance in the development of teaching and research centers which will serve for researching advancements in high technology and for educating and preparing individuals for tomorrow's high technology society. To this end, the Legislature finds that it is in the public interest, and for the public benefit, to construct or renovate and equip facilities for use as research and educational centers dedicated to high technology fields of engineering, computer science, biological sciences, and related basic sciences, that may be lease-purchased by the University of California and leased or lease-purchased by the California State University and the California Maritime Academy

15820.2. It is the intent of the Legislature that the cost of any project authorized by statute pursuant to this chapter be considered an expenditure of state funds in the fiscal year in which payments are made to the State Public Works Board under the terms of the lease or lease-purchase agreement.

Article 2. High Technology Facilities

15820.3. The board is authorized to, and may, finance the construction or renovation, and the equipping, of public buildings or facilities on a site or sites within the University of California, the California State University, the California Maritime Academy, and the California Community College districts, as agreed upon with the Regents of the University of California, the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and the California Community College districts, respectively.

15820.5. Any public building or facility which is constructed or renovated and equipped pursuant to this chapter shall be utilized only for educational and research purposes related to fields of high technology, as defined in this chapter.

15820.7. The board shall lease-purchase to the Regents of the University of California and lease or lease-purchase to the Trustees of the California State University, the Board of Governors of the California Maritime Academy, and to the California Community College districts, upon approval of the Board of Governors of the California Community Colleges, pursuant to Section 81800 and

following sections of the Education Code, any public building or facility constructed or renovated and equipped pursuant to this chapter, the term and the amount to be determined by mutual agreement of the parties. The lease-purchase agreement or the lease shall provide that the public building or facility shall be utilized only for educational and research purposes related to fields of high technology, set forth in this chapter. The board shall contract with the lessee for all activities required to plan, construct, renovate, and equip these facilities.

Article 3. Construction Financing

15820.10. (a) The board may issue certificates pursuant to Chapter 4 (commencing with Section 15821) or revenue bonds, negotiable notes, or negotiable bond anticipation notes pursuant to Chapter 5 (commencing with Section 15830) to finance the cost of construction or renovation and the equipping of the public buildings or facilities authorized by this chapter.

(b) The revenues, rentals, or receipts from the public buildings or facilities and equipment authorized by this chapter shall be pledged to the payment of the principal of, and the interest on, the certificates, revenue bonds, notes, or anticipation notes issued to finance the construction or renovation and the equipping of those public buildings or facilities.

(c) No certificates, revenue bonds, notes, or anticipation notes shall be issued, and no construction or renovation and the equipping for any public building or facility authorized by this chapter shall be commenced or purchased, unless the Legislature, by statute, authorizes the total amount of certificates, revenue bonds, notes, or anticipation notes that may be issued to finance that public building or facility and expressly approves the construction thereof.

SEC. 2. This act shall remain in effect only until January 1, 1992, and on that date is repealed, unless a later enacted statute which is chaptered before January 1, 1992, deletes or extends that date.

CHAPTER 1269

An act to amend Sections 115, 1266, 1267, and 1575.9 of the Health and Safety Code, relating to health facilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 115 of the Health and Safety Code is amended to read:

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

(b) The fees or charges required to accompany an application for the issuance or renewal of any license pursuant to Section 1729 shall also be adjusted annually, commencing January 1, 1983, by a percentage determined by dividing the total amount of federal funds available for Home Health Agencies during the federal fiscal year ending on September 30 of the year immediately preceding the effective date of the change in fees, less federal funds available for Home Health Agencies for the federal fiscal year which began on October 1 of the year immediately preceding the effective date of the change in fees, by the total estimated revenue derived pursuant to Section 1729 for the fiscal year beginning July 1 of the year immediately preceding the effective date of the change in fees.

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

SEC. 2. Section 1266 of the Health and Safety Code is amended to read:

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

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

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

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

1-59 beds	$2,068 plus $26 per bed
60-99 beds	$2,543 plus $26 per bed
100 or more beds	$3,183 plus $26 per bed

The fees provided in this subdivision shall be adjusted, commencing July 1, 1983, as proposed in the department's 1983–84 fiscal year Health Facility License Fee Report to the Legislature. Commencing July 1, 1984, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(b) The state department shall submit to the Legislature, on or before January 17 of each year, a report describing program costs within the Licensing and Certification Division, and a methodology for calculating fee levels in an amount sufficient to provide revenues equal to (1) the General Fund expenditures for the fiscal year ending on June 30 of that year, as specified in the proposed Governor's Annual Budget, less license fees which shall be collected in that fiscal year by the Licensing and Certification Program pursuant to sections other than Section 1266, plus (2) the amount of federal funds budgeted for the fiscal year ending June 30 of that year for the Licensing and Certification Program, less federal funds received or credited, or anticipated to be received or credited, during that fiscal year for that purpose.

The report shall specifically identify federal funds received, but not previously budgeted, for the Licensing and Certification Program which are used to offset the amount of General Fund dollars to be recovered through license fees. The report shall also identify the purpose of federal funds received for any additional activities under the Licensing and Certification Program which are not used to offset the amount of General Fund dollars.

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

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

SEC. 3. Section 1267 of the Health and Safety Code is amended to read:

1267. Each license issued pursuant to this chapter shall expire 12 months from the date of its issuance and each special permit shall expire on the expiration date of the license. Application for renewal of a license or special permit accompanied by the necessary fee shall be filed with the state department not less than 30 days prior to the

expiration date. Failure to make a timely renewal shall result in expiration of the license or special permit.

A renewal license or special permit may be issued for a period not to exceed two years if the holder of the license or special permit has been found in substantial compliance with any statutory requirements, regulations, or standards during the preceding license period.

Notwithstanding the length of the period for which a renewal license is issued, a license fee shall be due and payable annually.

SEC. 3.5. Section 1267 of the Health and Safety Code is amended to read:

1267. Each license issued pursuant to this chapter shall expire 12 months from the date of its issuance and each special permit shall expire on the expiration date of the license. Application for renewal of a license or special permit accompanied by the necessary fee shall be filed with the state department not less than 30 days prior to the expiration date. Failure to make a timely renewal shall result in expiration of the license or special permit.

A renewal license or special permit may be issued for a period not to exceed two years if the holder of the license or special permit has been found in substantial compliance with any statutory requirements, regulations, or standards during the preceding license period. However, for a health facility specified in subdivision (a) or (b) of Section 1250, a renewal license or special permit may be issued for a period not to exceed three years, if the holder of the license or special permit has been found in substantial compliance with statutory requirements, regulations, or standards during the preceding license period.

Notwithstanding the length of the period for which a renewal license is issued, a license fee shall be due and payable annually.

SEC. 4. Section 1575.9 of the Health and Safety Code is amended to read:

1575.9. Each application for a new license or renewal submitted to the state department shall be accompanied by an annual fee of five hundred seventeen dollars ($517). However, the director shall waive the fee or reduce the fee to thirty dollars ($30) for a new or renewal license when the director determines that there is the expectation that not less than 50 percent of the participants during the period covered by the fee will be Medi-Cal beneficiaries or would be at risk of becoming Medi-Cal beneficiaries should institutional long-term care be required.

SEC. 5. Section 3.5 of this bill incorporates amendments to Section 1267 of the Health and Safety Code proposed by both this bill and SB 367. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1984, but this bill becomes operative first, (2) each bill amends Section 1267 of the Health and Safety Code, and (3) this bill is enacted after SB 367, in which case Section 1267 of the Health and Safety Code, as amended by Section 3 of this bill, shall remain operative only until the

operative date of SB 367, at which time Section 3.5 of this bill shall become operative.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that license fees support the licensing and certification function of the State Department of Health Services, as provided in the Budget Act, it is necessary that this act take effect immediately as an urgency statute.

CHAPTER 1270

An act to amend Sections 37220, 52034, 52850, 52885, 54004.1, 54120, 54123, 62001, 62002.5, and 62006 of, to amend the heading of Part 34 (commencing with Section 62000) of, to add Part 36 (commencing with Section 64000) to, to add and repeal Section 62006.5 of, to repeal and add Section 62000 of, and to repeal Section 62000.5 of, the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. It is the intent of the Legislature, in enacting this act, to maintain and improve educational program quality while providing greater flexibility at the state and local levels, and to reduce paperwork which does not have direct educational benefit.

SEC. 2. Section 37220 of the Education Code is amended to read:

37220. Except as otherwise provided the public schools shall continue in session or close on specified holidays as follows:

(a) The public schools shall close on January 1st, January 15th known as "Dr. Martin Luther King, Jr. Day," February 12th known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," July 4th, the first Monday in September known as "Labor Day," November 11th known as "Veterans Day," that Thursday in November proclaimed by the President as "Thanksgiving Day," and December 25th. However, the governing board of a school district may elect to celebrate Veterans Day on the Friday or Monday of the week in which November 11th occurs.

(b) The Governor in appointing any other day for a public fast, thanksgiving, or holiday may provide whether the public schools shall close on the day. If the Governor does not provide whether the public schools shall close, they shall continue in session on all special or limited holidays appointed by the Governor, but shall close on all

other days appointed by the Governor for a public fast, thanksgiving, or holiday.

(c) The public schools shall close on every day appointed by the President as a public fast, thanksgiving, or holiday, unless it is a special or limited holiday.

(d) The public schools shall continue in session on all legal holidays other than those designated by or pursuant to this section and shall hold proper exercises commemorating the day.

(e) When any of the holidays on which the schools would be closed fall on Sunday, the public schools shall close on the Monday following.

(f) When any of the holidays on which the schools would be closed fall on Saturday, the public schools shall close on the preceding Friday, and such Friday shall be declared a state holiday.

(g) If any holiday on which the public schools are required to close pursuant to subdivision (a) occurs under federal law on a date different than the date specified in subdivision (a), the governing board of any school district may close the public schools of the district on the date recognized by federal law and maintain classes on the date specified in subdivision (a).

(h) Nothing in this section is to be interpreted as authorizing a school district governing board to maintain schools in its district for a lesser number of days during the school year than the minimum established by law.

SEC. 3. Section 52034 of the Education Code is amended to read:

52034. Participating school district governing boards shall:

(a) Review and approve or disapprove planning applications and school improvement plans consistent with, but not limited to, rules and regulations adopted by the State Board of Education pursuant to Section 52039.

No plan shall be approved unless it was developed and recommended by a school site council. In the event any plan is not approved by the governing board, specific reasons for this action shall be communicated to the council. Modifications to any school improvement plan shall be developed, recommended, and approved or disapproved in the same manner.

(b) Develop and update annually a district master plan keyed to the school improvement objectives of participating schools. The master plan shall be approved by the school district governing board, retained at the district office, available to the Superintendent of Public Instruction upon request, and available to the public on a reasonable basis pursuant to the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. The master plan shall include:

(1) A description of the district's strategies to assist schools to plan, implement, and evaluate school improvement programs.

(2) A plan for the phase-in of schools pursuant to subdivision (c) of Section 52011.

(3) Copies of all approved school improvement plans, which may be either newly developed plans or revisions of previously approved plans. These copies shall be retained at the school sites and at the school district office.

(4) A schedule of planning grants and implementation grants for participating schools.

(c) Adopt policies regarding the responsibilities of school site councils required by Section 52012 and establish communication procedures to ensure reasonable opportunities for each council or its representatives to meet with the governing board.

(d) In cooperation with participating schools, inventory opportunities for community-based learning and design processes by which secondary students may demonstrate proficiency in any aspect of the curriculum to pursue an elective course of study.

(e) Evaluate the effectiveness of participating schools in meeting their school improvement program objectives.

(f) Terminate implementation grants to schools which are unsuccessful over a four-year period in substantially meeting the objectives of their approved plans pursuant to rules and regulations adopted by the State Board of Education.

(g) Provide for staff development activities jointly developed with teachers and other school personnel which reflect the goals of this chapter.

(h) Examine the patterns of school organization to determine which patterns best meet the needs of the students in the district.

(i) Ensure that allowances provided pursuant to this chapter shall be used to supplement, not supplant, existing fiscal efforts and that schools which receive such allowances shall have base expenditures comparable to nonparticipating schools.

SEC. 4. Section 52850 of the Education Code is amended to read:

52850. The provisions of this article shall apply only to school districts and schools which participate in school-based coordinated categorical programs pursuant to this article. No school may operate pursuant to this article unless a newly developed plan or a revision of the previously approved plan has been approved by the local governing board and is retained at the school site. These plans shall be available to the Superintendent of Public Instruction upon request and shall be made available to the public on a reasonable basis pursuant to the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code.

SEC. 5. Section 52885 of the Education Code is amended to read:

52885. The State Board of Education shall:

(a) Adopt rules and regulations necessary to implement the provisions of this chapter.

(b) Rule on requests to waive provisions of this code or the California Administrative Code pursuant to Section 33050.

SEC. 6. Section 54004.1 of the Education Code is amended to read:

54004.1. For fiscal year 1979-80 and each year thereafter, the Superintendent of Public Instruction shall apportion funds available for programs in accord with procedures specified in this chapter and rules and regulations established by the State Board of Education. Funds shall be allocated to each district within its entitlement based upon the following:

(a) A district allocation plan developed pursuant to Sections 54004.3, 54004.5, and 54004.7 which shall be submitted to the Superintendent of Public Instruction and approved by the State Board of Education.

(b) A school plan, including any modification for each school receiving funds allocated pursuant to Sections 54004.5 and 54004.7, which has been approved by the governing board of the school district and is retained at the school site and at the school district office. This plan shall be available to the Superintendent of Public Instruction upon demand and shall be made available to the public on a reasonable basis pursuant to the provisions of the California Public Records Act, Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code. The plan shall include, but not be limited to:

(1) An explicit statement of what the school seeks to accomplish.

(2) A description of the program and activities designed to achieve these purposes.

(3) A planned program of annual evaluation, including a statement of criteria to be used to measure the effectiveness of the program.

(c) Schools which provide programs pursuant to subdivision (a) of Section 52165 shall include such programs in the school plan.

SEC. 7. Section 54120 of the Education Code is amended to read:

54120. The governing board of any school district maintaining elementary schools, in order to provide reading instruction under the provisions of this chapter, may appoint any elementary school teacher to a reading specialist position if the appointee has met the following minimum requirements:

(a) Holds a Reading Specialist Credential issued pursuant to Section 44265 or a Miller-Unruh Reading Specialist Certificate.

(b) Has completed three years as a successful teacher in any grades 1 to 6, inclusive.

(c) Is fully credentialed by the State of California to teach in kindergarten or any of grades 1 to 6, inclusive.

(d) Successfully completed the following college or university courses:

(1) A basic course in the teaching of elementary school reading.

(2) A basic course in the teaching of elementary school language.

(3) A basic course in the diagnosis and remediation of reading disabilities.

(4) A course in directed clinical practice in the remediation of reading disabilities. The course may be concurrent with the first year as a reading specialist.

The requirements specified in subdivision (d) are not applicable to reading specialists with valid Miller-Unruh Reading Specialist Certificates issued prior to the effective date of the act amending this section enacted at the 1983–84 Regular Session of the Legislature.

SEC. 8. Section 54123 of the Education Code is amended to read:

54123. Reading specialists employed by a school district shall be relieved of all regular teaching and administrative responsibilities and shall devote their full time in the performance of the following prioritized responsibilities, which shall be directed toward insuring that pupils attain essential reading skills:

(a) First priority shall be supplementing the reading instruction in kindergarten and grade 1, with an emphasis on the prevention of reading difficulties.

(b) Second priority shall be providing supplementary, specialized diagnostic services and prescriptive instruction to small groups of pupils or to individual pupils in need of special reading instruction in the primary grades.

(c) Final priority shall be providing corrective instruction to individuals and small groups of pupils in grades 4 through 6 after all primary needs are met.

No Miller-Unruh specialist shall maintain a caseload in excess of 60 pupils at any one time, nor shall the daily caseload exceed 40 pupils receiving individual or small group instruction. Each specialist shall be responsible for providing leadership for the total school reading program, including providing in-service training, demonstrations, and serving as a reading resource specialist for the school.

Adequate time shall be allotted in the specialist's schedule to allow the time needed for diagnostic and prescriptive planning, for staff development, and for self-improvement.

SEC. 8.5. The heading of Part 34 (commencing with Section 62000) of the Education Code is amended to read:

PART 34. EVALUATION AND SUNSETTING OF PROGRAMS

SEC. 9. Section 62000 of the Education Code is repealed.

SEC. 10. Section 62000 is added to the Education Code, to read:

62000. "Sunset" and "sunset date," as used in this part, mean the date on which specific categorical programs cease to be operative and the provisions of Sections 62002, 62003, 62004, 62005, and 62005.5 govern program funding.

The following educational programs shall cease to be operative on the date specified, unless the Legislature enacts legislation to continue the program after the review prescribed in Section 62006:

(a) Sunset date of June 30, 1985:

(1) Demonstration programs in reading and mathematics.

(2) Local staff development and teacher education and computer centers.

(3) Educational technology.

(4) Professional development centers.

(5) Instructional materials.
(b) Sunset date of June 30, 1986:
(1) Miller-Unruh Basic Reading Act of 1965.
(2) School improvement program.
(3) Indian early childhood education.
(4) Economic impact aid.
(5) Bilingual education.
(c) Sunset date of June 30, 1987:
(1) Special education.
(2) Gifted and talented education.
(d) Sunset date of June 30, 1988:
(1) Child development and preschool programs.
(2) Adult education.
(3) Indian education centers.

SEC. 11. Section 62000.5 of the Education Code is repealed.

SEC. 12. Section 62001 of the Education Code is amended to read:

62001. (a) The intent of the Legislature in enacting this section is to assure a thorough review of programs listed in Section 62000 and the funding sources thereof, so that they most effectively, efficiently, and economically meet the needs of pupils and improve schools. It is not the intent of the Legislature in enacting this section to remove resources from students with special needs, or to cease efforts to improve the schools.

(b) It was the intent of the Legislature in enacting this part to ensure that each categorical program is thoroughly reviewed. It was also intended that programs would be reviewed the year prior to the sunset date so that school districts and county offices of education would not be subject to unnecessary confusion and disruption in planning and administering those programs.

(c) It is further the intent of the Legislature that the legislative review of programs specified in Section 62000 shall consider the appropriateness of state administration by agencies other than by the State Department of Education, such as the Commission on Teacher Credentialing and the Chancellor of the California Community Colleges.

SEC. 12.5. Section 62002.5 of the Education Code is amended to read:

62002.5. Parent advisory committees and school site councils which are in existence pursuant to statutes or regulations as of January 1, 1979, shall continue subsequent to the termination of funding for the programs sunsetted by this chapter. Any school receiving funds from Economic Impact Aid or Bilingual Education Aid subsequent to the sunsetting of these programs as provided in this chapter, shall establish a school site council in conformance with the requirements in Section 52012. The functions and responsibilities of such advisory committees and school site councils shall continue as prescribed by the appropriate law or regulation in effect as of January 1, 1979.

SEC. 13. Section 62006 of the Education Code is amended to read:

62006. (a) The Legislature shall begin immediately a detailed study which shall ensure that each funding source and program be scrutinized regarding, but not limited to, the:

(1) Appropriateness of identification formulas in determining which children have special needs.

(2) Appropriateness of allocation formulas and adequacy of funding.

(3) Effectiveness of programs.

(4) Appropriateness of local control.

(5) Appropriateness of state level involvement in monitor, review, and auditing to assure that funds are being used efficiently, economically, and legally.

(6) Appropriateness of costs of administration at all levels of operating these programs.

(7) Appropriateness of State Department of Education administration of categorical programs.

(8) Interrelationships between and among state and federal categorical programs, as appropriate.

(9) Characteristics of the target population being served.

(10) Need for the program.

(11) Purpose and intent of the program.

(b) In order to facilitate the legislative review, reports shall be developed and submitted to the Legislature pursuant to subdivisions (c), (e), and (f). The reports for programs scheduled to sunset in 1985 shall be submitted to the Legislature by December 1, 1983; for programs scheduled to sunset in 1986, the reports shall be submitted by September 15, 1984; for programs scheduled to sunset in 1987, the reports shall be submitted by September 15, 1985; for programs scheduled to sunset in 1988, the reports shall be submitted by September 15, 1986.

The report by any agency in any given year may comment, within a single report, on all programs scheduled to sunset in the applicable year.

(c) The State Department of Education shall submit a report on the applicable programs pursuant to the schedule provided in subdivision (b) and shall also submit a copy of each report to the Legislative Analyst. The report shall contain, but not be limited to, the following:

(1) A description of the programs, including narrative descriptions of how they are typically operated at the local level and how they are administered at the state level.

(2) The history of the program or programs and previous legislative action.

(3) Relevant statistical data, including enrollment and fiscal data.

(4) Related federal programs, and any provisions of federal law which may be appropriate for the Legislature to consider in its review of the state programs.

(5) Whether there is an unmet need for the intended purposes of the program and, if any, the estimated cost of serving that unmet

need.

(6) Findings regarding the program, addressing as many of the issues identified in subdivision (a) as is possible. To the extent appropriate, as determined by the State Department of Education, the report shall include comments on whether any identified problems are implementation issues, or issues that warrant revision of law or regulations.

(7) Recommendations of ways to improve the program while maintaining its basic purposes.

(d) The Legislative Analyst shall review the report submitted by the State Department of Education and, no later than 90 days following the receipt of each report, shall submit findings, comments, and recommendations, as the Legislative Analyst determines appropriate, regarding the program, addressing as many of the issues identified in subdivision (a) as the Legislative Analyst determines is possible. To the extent determined appropriate by the Legislative Analyst, the report shall include comments on whether any identified problems are implementation issues or issues that warrant revision of the law or regulations and shall include recommendations of ways to improve the programs while maintaining its basic purposes.

(e) The Legislative Counsel shall submit a report on the applicable programs, pursuant to the schedule provided in subdivision (b). The report shall include, but not be limited to, the following:

(1) A summary of the law regarding the programs, including applicable regulations.

(2) A summary of related federal law and regulations, if any.

(3) A summary of related court decisions, if any.

(4) A summary of any federal provisions or court decisions which place constraints on the Legislature's alternatives.

(f) Each temporary advisory committee established pursuant to Section 62006.5 shall submit a report on the applicable programs, pursuant to the schedule provided in subdivision (b). The report shall make findings and recommendations on as many of the issues identified in subdivision (a), as is possible.

SEC. 14. Section 62006.5 is added to the Education Code, to read:

62006.5. (a) There are hereby established the following four temporary advisory committees, each to serve for the specified period of time:

(1) A temporary advisory committee on the programs scheduled to sunset on June 30, 1985. This advisory committee shall serve for the period September 1, 1983 through December 31, 1983.

(2) A temporary advisory committee on the programs scheduled to sunset on June 30, 1986. This advisory committee shall serve for the period January 1, 1984 through December 31, 1984.

(3) A temporary advisory committee on the programs scheduled to sunset on June 30, 1987. This advisory committee shall serve for the period January 1, 1985 through December 31, 1985.

(4) A temporary advisory committee on the programs scheduled to sunset on June 30, 1988. This advisory committee shall serve for the period January 1, 1986 through December 31, 1986.

(b) Each temporary advisory committee shall consist of 12 members selected as follows:

(1) Three members selected by the Speaker of the Assembly who shall ensure that his or her appointees consist of one administrator or school board member, one nonadministrative school employee, and one parent, student, or community member.

(2) Three members selected by President pro Tempore of the Senate who shall ensure that his or her appointees consist of one administrator or school board member, one nonadministrative school employee, and one parent, student, or community member.

(3) Six members selected by the Governor as follows:

(i) Two administrators or school board members.

(ii) Two nonadministrative school employees.

(iii) Any combination of two parents, students, or community members.

(c) Members of each advisory committee shall serve without compensation, except for reimbursement of expenses.

(d) The State Department of Education shall provide staff support to each advisory committee.

(e) This section shall remain in effect only until January 1, 1987, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1987, deletes or extends such date.

SEC. 15. Part 36 (commencing with Section 64000) is added to the Education Code, to read:

PART 36. CONSOLIDATED APPLICATION PROCESS

64000. (a) The provisions of this part shall apply to applications for funds under the following categorical programs:

(1) Child care and development programs pursuant to Chapter 2 (commencing with Section 8200) of Part 6.

(2) School library programs pursuant to Chapter 2 (commencing with Section 18100) of Part 11.

(3) Staff development centers and programs pursuant to Chapter 3.1 (commencing with Section 44670) of Part 25.

(4) School improvement programs pursuant to Chapter 6 (commencing with Section 52000) of Part 28.

(5) Bilingual education programs pursuant to Article 3 (commencing with Section 52160) of Chapter 7 of Part 28.

(6) School-based coordinated categorical programs pursuant to Chapter 12 (commencing with Section 52800) of Part 28.

(7) Economic Impact Aid programs pursuant to Chapter 1 (commencing with Section 54000) of Part 29.

(8) The Miller-Unruh Basic Reading Act of 1965 pursuant to Chapter 2 (commencing with Section 54100) of Part 29.

(9) Compensatory education programs pursuant to Chapter 4

(commencing with Section 54400) of Part 29, except for programs for migrant children pursuant to Article 3 (commencing with Section 54440) of Chapter 4 of Part 29.

(b) Each school district shall submit to the State Department of Education, for approval by the State Board of Education, a single consolidated application for approval or continuance of categorical programs subject to this part.

64001. (a) Notwithstanding any other provision of law, school districts shall not be required to submit to the State Department of Education, as part of the consolidated application, school plans for categorical programs subject to this part. School districts shall assure, in the consolidated application, that the appropriate school plans have been prepared in accordance with law, that school site councils have developed and approved the school plans for schools participating in the School Improvement Program or School-Based Program Coordination Act, and that school plans were developed with the review, advice, and certification of any applicable school advisory committees. The consolidated application shall also include certifications by appropriate district advisory committees that the application was developed with review and advice of those committees.

The consolidated application shall also include a description of the procedures adopted by the school district to comply with subdivision (c).

For any consolidated application which does not include the necessary certifications or assurances, the State Department of Education shall initiate an investigation to determine whether the consolidated application and school plans were developed in accordance with law and with the involvement of appropriate advisory committees and school site councils.

School districts shall submit. in a form designated by the Superintendent of Public Instruction, pupil data confirming compliance with the requirements of bilingual education programs pursuant to Article 3 (commencing with Section 52160) of Chapter 7 of Part 28. Pupil and fiscal data and school plans shall be used as the basis for determining compliance with the provisions of state law and regulations concerning bilingual education programs, and shall include a reasonable sample of schools participating in the programs.

(b) Onsite school program and district compliance reviews of categorical programs shall continue, and school plans shall be required and reviewed as part of these onsite visits and compliance reviews.

(c) School districts shall ensure that for each school in a district operating categorical programs subject to this part, school plans and onsite program reviews are conducted at least once every three years by independent persons not employed by the school district. The Superintendent of Public Instruction shall adopt regulations establishing criteria for these reviews and shall develop a process for State Department of Education training and validation concerning

these reviews.

The Superintendent of Public Instruction may authorize a school district, on a school-by-school or districtwide basis, to conduct these reviews at least once every four, five, or six years, instead of at least once every three years, if he or she specifically determines that the school district has a history of operating high quality categorical programs subject to this part, in the particular school or in the district as a whole.

(d) A school district shall submit school plans whenever the State Department of Education requires the plans in order to effectively administer any categorical program subject to this part. The State Department of Education shall require submission of the school plan for any school which is the specific subject of a complaint involving any categorical program or service subject to this part.

The State Department of Education may require a school district to submit such other data or information as may be necessary for the department to effectively administer any categorical program subject to this part.

SEC. 16. 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. 17. This act is an urgency statute necessary for the immediate preservation of 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 school districts to benefit as soon as possible from the additional flexibility provided by this act, and in order to further the orderly administration of this act, it is necessary for this act to take effect immediately.

CHAPTER 1271

An act to add Article 4.5 (commencing with Section 514) to Chapter 1 of Part 2 of Division 1 of, and to repeal Article 5 (commencing with Section 540) and Article 6 (commencing with Section 548) of Chapter 1 of Part 2 of Division 1 of, the Health and Safety Code, relating to sanitarians, and making an appropriation therefor.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Article 4.5 (commencing with Section 514) is added to Chapter 1 of Part 2 of Division 1 of the Health and Safety Code, to read:

Article 4.5. Sanitarian Registration

514. It is the intent of the Legislature in adopting this article to safeguard the health, safety, and general welfare of the public by the registration of those environmental health professionals practicing as sanitarians who have completed an approved environmental health or science curriculum and who are qualified to work, or are working, within the scope of the field of environmental health as defined by this article.

In adopting this article, it is recognized that the field of environmental health is a dynamic field which is continually evolving into new and complex areas of concern. This article recognizes the existence of overlapping functions with other professions carrying out specific activities which may include some aspects of the field of environmental health.

515. This article does not require registration of individuals, such as industrial hygienists, health physicists, safety engineers, civil engineers, land surveyors, other registered professional engineers, or others with overlapping functions. This article does not require registration of individuals performing duties described in subdivision (e) of Section 518, unless those individuals represent themselves as registered sanitarians. It is not the intent of this article to require city or county health departments or local health districts to employ only registered sanitarians, sanitarian trainees, or those qualified for registration in jobs involving those overlapping functions. It is the sole purpose of this article to safeguard the health, safety, and general welfare of the public from adverse environmental factors, to register those environmental health professionals practicing as sanitarians who have completed an approved environmental health or science curriculum, and are qualified to work, or are working, in the public or private sector in the field of environmental health within the scope of practice as defined in this article, and to protect the public from individuals performing as sanitarians without proper qualifications.

516. The department shall, upon recommendation of the Sanitarian Registration Certification Committee appointed pursuant to Section 523, adopt any regulations necessary to accomplish the purposes of this article. Current regulations governing registered sanitarians shall remain in effect until repealed or amended.

517. The words and phrases defined in this section shall have the following meaning, unless the context clearly indicates otherwise:

(a) "Department" means the State Department of Health Services.

(b) "Committee" means the Sanitarian Registration Certification Committee.

(c) "Registered sanitarian" means an environmental health professional educated and trained within the field of environmental health who is registered in accordance with the provisions of this article.

(d) "Sanitarian trainee" means a person who possesses the necessary educational qualifications as prescribed in this article for registration as a sanitarian, but who has not completed the experience requirements in the field of environmental health as required for registration.

(e) "Scope of practice in environmental health" means the practice of environmental health by registered sanitarians in the public and private sector within the meaning of this article and includes, but is not limited to, organization, management, education, enforcement, and consultation for the purpose of prevention of environmental health hazards and the promotion and protection of the public health and the environment in the following areas: food protection; housing; institutional environmental health; land use; community noise control; recreational swimming areas and waters; solid, liquid, and hazardous wastes management; onsite septic systems; vector control; water sanitation; disaster sanitation; and milk and dairy sanitation pursuant to Section 33113 of the Food and Agricultural Code. Activities of registered sanitarians shall be regulated by the department upon the recommendation of the committee.

(f) "Certificate of registration" means a signed document issued by the department as evidence of registration and qualification to practice as a registered sanitarian under this article. The certificate shall bear the designation "registered sanitarian" and shall show the name of the person, date of issue, registration number, and seal.

(g) "Experience requirement" means on-the-job training and experience, as stated in this article, which all sanitarian trainees shall complete prior to obtaining eligibility for the registered sanitarian examination.

(h) "Approved environmental health program" means a training program in an organization which plans to utilize sanitarian trainees and has on file with the department a copy of its training plan which has been approved by the committee.

(i) "Director" means the State Director of Health Services.

518. Except for the design of onsite septic systems, nothing in this article shall authorize a registered sanitarian to design any of the fixed works defined in Section 6731 of the Business and Professions Code.

519. The governing body of a city, county, or local health district may employ on a full-time basis one or more sanitarians, each of whom shall be a registered sanitarian as provided for in this article for the purpose of the enforcement of statutes related to public health, and the rules and regulations of the State Department of

Health Services, and any local ordinances of a city, county, or local health district that relate to activities under subdivision (e) of Section 518. However, any person who is known as a sanitarian trainee may, without a certificate of registration, be employed to work under the supervision of a registered sanitarian until he or she is qualified by examination as provided under Section 521 which shall not exceed three years.

520. The department shall, by regulation, establish the qualifications for registration of sanitarians. Any person may make an application to the department to be registered as a sanitarian. The department shall accept complete applications, if accompanied by the required fees. Any person who, on or before January 1, 1984, is registered as a sanitarian by the State Department of Health Services shall be certified as being a registered sanitarian under the provisions of this article. The regulations for registration of sanitarians shall conform to all of the following:

(a) A minimum of a bachelor's degree from a department approved educational institution of collegiate grade shall be required, and the degree shall include either prescribed curricula leading to a degree in environmental health or shall include 30 semester units of prescribed basic sciences.

(b) Experience requirements of no more than two years maximum shall be established based on the amount and type of educational background of the applicant.

(c) All applicants shall have experience in environmental health unless they have completed an environmental health internship program approved by the committee and by the department.

521. Any person meeting the educational qualifications pursuant to Section 520, but who does not meet the experience requirement of that section, may make application to the department on a form prescribed by the department for acceptance as a sanitarian trainee. The department shall accept complete applications if accompanied by the required fees.

522. (a) On and after the effective date of this article, only persons who meet the educational and experience requirements as established under Section 520 shall be eligible for admission to examination for registration as a sanitarian.

(b) The professional examination shall be prescribed by the department with the concurrence of the committee, and a passing score on the examination shall be required prior to registration.

(c) The department shall issue certificates of registration to qualified applicants.

(d) An applicant who fails to pass the examination may reapply by submitting a new application with the required fee.

523. (a) A Sanitarian Registration Certification Committee shall be appointed to advise and to make recommendations to the department with respect to, and to take other actions as described in this article for the establishment of rules and regulations necessary to ensure, the proper administration and enforcement of the

registration of sanitarians whose duties in public health and environmental health require knowledge and skills in the physical, biological, and environmental health sciences and whose performance of professional duties is necessary for the promotion of life, health, and well being of the public.

(b) The committee shall consist of the Chief of the Office of Local Environmental Health Programs, State Department of Health Services, or the designee of the chief, who shall serve as executive officer but who shall not vote, and the following 10 members who are residents of the state:

(1) Two members appointed by the director from the California Conference of Directors of Environmental Health who shall be registered sanitarians with at least two years' experience as directors of environmental health in this state.

(2) Three members appointed by the director, each of whom shall be a qualified, practicing sanitarian registered in California for a period of five or more years. For purposes of this subdivision:

(A) One member shall be employed in the public sector at the time of appointment.

(B) One member shall be employed in the private sector at the time of appointment.

(C) One member shall be from the California Environmental Health Association.

(3) One member appointed by the director from the California Conference of Local Health Officers.

(4) Two members appointed by the director from the environmental health faculty of those California universities and colleges with approved curricula leading to a degree in environmental health.

(5) Two public members who have not been engaged at any time within five years immediately preceding their appointment in pursuits which lie within the field of environmental health or the profession regulated by the committee of which they are members. The Senate Rules Committee shall appoint one public member and the Speaker of the Assembly shall appoint one public member.

524. The terms of the members of the committee first appointed shall be determined by lot and shall expire as follows: two members on January 1, 1985; two members on January 1, 1986; three members on January 1, 1987; and three members on January 1, 1988. Thereafter, appointments shall be for a four-year term. Committee members may serve no more than two successive terms. Each member shall serve on the committee 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 occurs first. Vacancies occurring prior to the expiration of the terms shall be filled by appointment for the unexpired term. The director, upon the recommendation of the committee by a two-thirds vote, may remove an appointee member for misconduct in office, incompetency, neglect of duty, or other

sufficient cause after due notice and hearing.

525. (a) The members of the committee shall, upon appointment and annually thereafter in the month of April, elect from their number a chairperson and a secretary.

(b) The committee shall meet at least two times annually and at such other times as it may determine to evaluate applications for registration as sanitarians, to review and update examinations, to prepare and recommend reports relative to the administration of this article, and to transact all other business as may be necessary to carry out the provisions of this article.

(c) The committee may hold informal hearings for the purpose of administrative items and adjudication of those matters which may properly come before it, make the necessary determinations in conjunction therewith, and issue recommendations to the department consistent with the findings. The department may designate the committee to appoint one or more of its members to serve as a hearing agent. The agent or representatives shall conduct hearings in the manner provided by law.

(d) Six members of the committee shall constitute a quorum and special meetings of the committee shall be called by the executive officer upon written request by two members of the committee.

(e) The members of the committee shall serve without compensation, but shall receive their actual and necessary expenses incurred in the performance of their duties on the committee. However, no funds shall be disbursed for those purposes without the prior approval of the department.

526. (a) The committee shall keep a record of its proceedings.

(b) The department shall maintain a register of all applications for registration and retain examination papers and records pertaining thereto for a length of time to be determined by the department.

(c) The department shall maintain a current registry of all registered sanitarians and all sanitarian trainees in the state.

(d) Individuals registered under provisions of this article are responsible for assuring that the department has a current mailing address for them.

527. (a) A nonreturnable application fee, as determined by the department upon the recommendation of the committee by a two-thirds vote, not to exceed one hundred dollars ($100) shall be paid by a person for each application for registration. Fees shall not exceed the actual administrative costs of the program. Fees shall be subject to the provisions of Section 113.

(b) A nonreturnable examination fee, as determined by the department upon the recommendation of the committee, not to exceed one hundred dollars ($100) shall be paid by a person for each application for examination.

(c) A nonreturnable biennial renewal fee, as determined by the department upon the recommendation of the committee by a two-thirds vote, not to exceed one hundred fifty dollars ($150) shall be paid by each registered sanitarian on or before the first day of

January of every second year, or on such other date as determined by the department. Each sanitarian registered on or after the effective date of this article, shall first pay the biennial fee at the time of initial registration to cover the calendar year in which registration is acquired and the following calendar year. Fees shall not exceed the actual administrative costs of the program. Fees shall be subject to the provisions of Section 113.

(d) Failure to pay any fee required under the provisions of this article shall be grounds for suspension of the registration. Continued delinquency for five years shall be grounds for revocation of registration.

(e) An additional penalty fee equal to 50 percent of the biennial renewal fee for each year of delinquency or portion thereof shall be paid by each person who fails to pay the fee required by subdivision (c) within 30 days of the established due date.

(f) The department shall receive and account for all money received pursuant to this article and shall deposit it with the Treasurer who shall keep the money in a separate fund to be known as "Sanitarian Registration Fund," which fund is hereby created.

(g) Notwithstanding Section 13340 of the Government Code, funds collected pursuant to the provisions of this article are continuously appropriated without regard to fiscal year to pay expenses of the department to administer the provisions of this article.

(h) The following interim fees are hereby established and shall remain in effect until the department adopts the necessary regulations pursuant to this section:

(1) A nonreturnable application fee of sixty dollars ($60).

(2) A nonreturnable examination fee of fifty dollars ($50).

(3) A nonreturnable biennial renewal fee of seventy-five dollars ($75).

528. The department upon recommendation of the committee, may, by regulation, establish the requirement and standards for continuing education for registered sanitarians. The standards shall be established in a manner to assure that a variety of forms of continuing education are available to registered sanitarians.

529. (a) Notwithstanding any other provisions of this article, the department may deny or refuse to renew a registration certificate issued under the provisions of this article upon a finding that the applicant has:

(1) Knowingly made a false statement of fact required to be revealed in the application for registration.

(2) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of a sanitarian.

(3) Knowingly made a false statement of fact required to be revealed in an application for or renewal of registration.

(4) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

(5) Failed to pay required fees for renewal according to the provision of this article.

(6) Failed to meet the applicable educational and experience requirements.

(7) Failed to successfully pass the examination.

(8) Failed to complete an application.

(b) Proceedings for the denial of registration under this article shall be in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of conflict between those provisions of the Government Code and the provisions of this article, the provisions of the Government Code shall prevail.

530. (a) Notwithstanding any other provisions of this article, the department upon the recommendation of the committee may suspend or revoke a registration certificate issued under the provisions of this article after sufficient notice and an opportunity for a hearing and upon findings that the applicant has:

(1) Knowingly made a false statement of fact required to be revealed in the application for registration.

(2) Been convicted of a crime, if the crime is related to the qualifications, functions, and duties of a sanitarian.

(3) Knowingly made a false statement of fact required to be revealed in an application for, or renewal of, registration.

(4) Committed an act of deceit, misrepresentation, violation of contract, fraud, negligence, professional incompetence, or unethical practice.

(5) Failed to pay required fees for renewal according to the provisions of this article.

(b) Proceedings for the suspension or revocation of registration under this chapter shall be in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the department shall have all the powers granted by those provisions. In the event of conflict between those provisions of the Government Code and the provisions of this article, the provisions of the Government Code shall prevail.

531. The department may use the following criteria to evaluate the potential for rehabilitation or actual rehabilitation of a person prior to denying, suspending, or revoking registration.

(a) The nature and severity of the act, crime, or violation under consideration as grounds for denial, suspension, or revocation.

(b) The time that has elapsed since commission of the act, crime, or violation.

(c) The extent to which the applicant has complied with any terms of parole, probation, restitution, or other sanctions imposed upon the applicant.

(d) Evidence of rehabilitation or lack of rehabilitation of the applicant.

532. The department shall, upon application therefor and upon payment of a fee, as determined by the department upon the recommendation of the committee by a two-thirds vote, not to exceed one hundred dollars ($100), issue a certificate of registration as a registered sanitarian to any person who holds a certificate of registration as a sanitarian issued by the proper authority of any state or territory, or possession of the United States, if the requirements for the registration of sanitarians under which the certificate was issued are consistent with the provisions of this article and at the time the certificate was granted were at least as stringent as those specified in Section 520.

533. The provisions of this article do not affect or replace any other requirements or qualifications imposed pursuant to state or federal law on persons involved in activities under subdivision (e) of Section 518.

534. Only a person who has qualified as a registered sanitarian and who holds a valid registration certificate for use in this state shall have the right and privilege of using the title "registered sanitarian" and to use the abbreviation "R.S." after the person's name. Only a person who has qualified as a sanitarian trainee and has a letter of acceptance issued by the department shall have the right and privilege of using the title "sanitarian trainee."

Any other use of the words "registered sanitarian" to denote a working title is prohibited.

A person who violates any provision of this section is guilty of a misdemeanor and may be fined a sum not to exceed one thousand dollars ($1,000) or imprisoned for not more than 180 days, or both.

SEC. 2. Article 5 (commencing with Section 540) of Chapter 1 of Part 2 of Division 1 of the Health and Safety Code is repealed

SEC. 3. Article 6 (commencing with Section 548) of Chapter 1 of Part 2 of Division 1 of the Health and Safety Code is repealed.

SEC. 4. If any provisions of this act, or the application thereof to any person or circumstances, is held invalid, the invalidity shall not affect other provisions of applications of the act which can be given effect without the invalid provisions or application, and to this end the provisions of this act are declared to be severable.

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 1272

An act to amend Sections 441.4 and 441.95 of, and to repeal and amend Section 441.18 of, of the Health and Safety Code, relating to health facilities.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 441.4 of the Health and Safety Code is amended to read:

441.4. No public member of the commission appointed after January 1, 1984, shall at any time during his or her period of service own, operate, manage, or be employed by any health facility or organization composed of health facilities subject to the provisions of this part.

SEC. 2. Section 441.95 of the Health and Safety Code is amended to read:

441.95. The commission shall:

(a) Be responsible for establishing an aggregate annual expenditure estimate covering all health facilities in the state as a whole and in each health systems area in California. The estimate projected shall be established after public hearings conducted by the commission at a regularly scheduled meeting following 45 days notice to the public.

The estimate shall be, in the judgment of the commission, an objective determination of the balance between the projection of patient service needs and the cost of services to meet these needs. Expenditure estimates shall be used as guidelines and addressed in the Health Systems Agency plans and the state plan. The Advisory Health Council shall approve the guidelines.

(b) Be responsible for developing, after public hearings conducted by the commission at a regularly scheduled meeting following 45 days' notice to the public, aggregate industry and individual facility cost and operational data for health facilities. Health systems agencies' plans and the state plan shall take these data into account in planning.

(c) Submit a report to the Legislature no later than March 1 of each year setting forth the annual expenditure estimate and cost and operational data developed pursuant to subdivisions (a) and (b).

SEC. 3. Section 441.18 of the Health and Safety Code, as amended by Chapter 329 of the Statutes of 1982, is amended to read:

441.18. Every organization which operates, conducts, or maintains a health facility and the officers thereof, shall make and file with the commission, within four months after the close of the organization's calendar or fiscal year for all annual accounting periods to which the systems of accounting and uniform reporting

approved under Section 441.17 are made applicable thereby, all of the following reports on forms specified by the commission which shall be in accord with such systems of accounting and uniform reporting:

(a) A balance sheet detailing the assets, liabilities, and net worth of the health facility at the end of its fiscal year.

(b) A statement of income, expenses, and operating surplus or deficit for the annual period ending on the balance sheet date.

(c) A statement detailing the source and application of funds expended by the health facility for the period encompassed by the income statement required by subdivision (b).

(d) A statement reporting the information required in subdivisions (a), (b), and (c) of this section for each separately licensed health facility operated, conducted, or maintained by the reporting organization.

(e) A report of health facility expenditures which allocates the costs of non-revenue-producing departments of a health facility to the other non-revenue- and revenue-producing centers which they serve, similar to the "step-down" or "double-apportionment" methods of cost finding used in reporting health facility cost experience under Title XVIII of the Federal Social Security Act. Any health facility which participates in Title XVIII as a provider of health care services may elect to file the cost data reports required under the regulations of the Social Security Administration in its administration of Title XVIII in place of the report required by the commission under this subdivision.

(f) The report required by subdivision (e) shall be accompanied by an accurate and sufficiently detailed statistical report containing data taken from the health facility's basic accounts and patient statistics as maintained under one of the systems approved in accordance with Section 441.17, which identifies costs related to categories, types or units of health care services delivered to patients by the operating departments of the health facility in accordance with a list of such services provided by the commission acting under the provisions of Section 441.15. Any health facility which participates in Title XVIII of the Federal Social Security Act may elect to file the statistical reports covering the provision of such health care services required under Title XVIII in place of the report required by the commission under this subdivision.

Health facilities described in subdivision (c) of Section 441.16 shall file such statements and reports, not inconsistent with subdivision (c) of Section 441.16, as the commission may reasonably require for the annual financial reporting period of such health facilities or group of health facilities.

On or before January 1, 1981, the commission, with the advice and consultation of the State Department of Health Services, shall adopt a single, uniform fiscal reporting document for long-term care facilities for use by the commission and the department.

(g) If federal regulations implementing subsection (a) of Section

19 of Public Law 95-142 relating to hospital reporting requirements for the Uniform Hospital Discharge Data Set (UHDDS) have not been adopted on or before July 1, 1981, every hospital for the first accounting year commencing on or after July 1, 1981, shall file a Hospital Discharge Abstract Data Record limited to all of the following:

(1) Date of birth.
(2) Sex.
(3) Race.
(4) Zip code.
(5) Admission date.
(6) Source of admission.
(7) Type of admission.
(8) Discharge date.
(9) Principal diagnosis.
(10) Other diagnoses.
(11) Principal procedure and date.
(12) Other procedures and dates.
(13) Total charges.
(14) Disposition of patient.
(15) Expected source of payment.

It is the expressed intent of the Legislature that the patient's rights of confidentiality shall not be violated in any manner.

A hospital or its designee shall annually file the Hospital Discharge Abstract Data Record not later than six months after the end of the calendar year, and the commission shall publish individual hospital discharge data summaries no later than six months after the date that the data required by this subdivision is submitted. A hospital may submit the Hospital Discharge Abstract Data Record in a computer tape format, and a hospital shall use coding from the International Classification of Diseases in reporting diagnoses and procedures. General acute care hospitals with a psychiatric component may use coding from the Diagnostic and Statistical Manual of Mental Disorders when reporting psychiatric patient discharge data. The commission shall have authority to grant modifications to systems of reporting the Hospital Discharge Abstract Data Record.

When the discharge data reporting requirements of Public Law 95-142 are implemented, the requirements of the Hospital Discharge Abstract Data Record adopted by the commission pursuant to this subdivision shall cease to be effective and the requirements of the federal regulations shall thereafter govern the data to be reported pursuant to this subdivision.

(h) The commission shall adopt forms of authentication for use by health facility officers or licensed accountants preparing reports under this section stating that each such officer or accountant making the authentication believes that to the extent of his or her knowledge and information each statement in the report is true.

With the exception of hospital discharge abstract data, all reports required to be filed by the health facility with the commission shall

be available for inspection by the public during regular working hours at the principal location of the health facility and at the commission's office.

SEC. 4. Section 441.18 of the Health and Safety Code, as added by Section 4.5 of Chapter 594 of the Statutes of 1980, is repealed.

CHAPTER 1273

An act to amend Sections 15610, 15620, 15621, and 15631 of, and to add Chapter 4.5 (commencing with Section 9380) to Division 8.5 of, the Welfare and Institutions Code, relating to elder abuse.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. It is the intent of the Legislature in enacting the provisions of this act to establish a mechanism to document the extent and type of elder abuse through reporting and evaluating instances of suspected elder abuse, in order to ascertain the need for planning and development of programs for provision of services to victims of elder abuse. County adult protection services agencies shall not be responsible for any increase in adult protective services resulting from the provisions of this act, except to the extent that existing state and federal funds are available for these services.

SEC. 2. Chapter 4.5 (commencing with Section 9380) is added to Division 8.5 of the Welfare and Institutions Code, to read:

CHAPTER 4.5. ELDER ABUSE REPORTING

9380. As used in this chapter:

(a) "Elder" means a person 65 years of age or older.

(b) "Elder abuse" means any one or more of the following acts which are inflicted by other than accidental means on an elder by another person: physical abuse, fiduciary abuse, neglect, or abandonment.

(c) "Physical abuse" means a situation where any person who has the care or custody of, or who stands in a position of trust with, an elder, willfully inflicts upon that elder 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.

(d) "Fiduciary abuse" means a situation where any person who stands in a position of trust with respect to an elder, willfully steals the money or property of that elder, or secretes or appropriates the money or property of that elder, to any use or purpose not in the due and lawful execution of his or her trust.

(e) "Neglect" means the negligent failure of any person having the care or custody of an elder to exercise that degree of care which a reasonable person in a like position would exercise. Neglect includes, but is not limited to:

(1) Failure to assist in personal hygiene, or in the provision of food, and clothing for an elder.

(2) Failure to provide the medical care for the physical and mental health needs of an elder. 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.

(3) Failure to protect an elder from health and safety hazards.

(4) Failure to prevent an elder from suffering malnutrition.

(f) "Abandonment" means the desertion or willful forsaking of an elder person by any person having the care or custody of that elder under circumstances in which a reasonable person would continue to provide care or custody.

(g) "Elder care custodian" means an administrator of a community care facility licensed to care for the elderly, a public assistance worker, a probation officer, a social worker, a licensed home aide, or an employee of an elder care institution, including personnel of residential care facilities, skilled nursing facilities, and intermediate care facilities.

(h) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, osteopath, podiatrist, chiropractor, resident, intern, nurse, pharmacist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(i) "Nonmedical practitioner" means a state or county public health employee who treats an elder for any condition, a paramedic, a coroner, a geriatric or family counselor, or a lawyer.

(j) "Elder protective agency" means the State Department of Social Services, a county probation department, a county welfare department, a police or sheriff's department, or a nursing home ombudsman.

9381. (a) Any elder care custodian, medical practitioner, nonmedical practitioner, or employee of an elder protective agency who has actual knowledge that an elder whom he or she observes in his or her professional capacity or within the scope of his or her employment has been the victim of physical abuse shall report the suspected instance of physical abuse to an elder protective agency immediately or as soon as possible by telephone and shall prepare and send a written report thereof within 36 hours.

(b) Any person who has knowledge of or observes an elder whom he or she reasonably suspects has been a victim of elder abuse may report the suspected abuse to an elder protective agency. For the purpose 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 elder abuse.

(c) Any elder care custodian, medical practitioner, nonmedical practitioner, or employee of an elder protective agency who has knowledge of, or who reasonably suspects that mental suffering has been inflicted on an elder, or that his or her emotional well-being is endangered in any other way, may report that suspected instance of elder abuse to an elder protective agency.

(d) When two or more persons who are required to report are present and jointly have knowledge of a suspected instance of elder 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 the 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.

(e) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties and no person making the 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 chapter.

9382. (a) Except as provided in subdivision (c), a telephone report of suspected elder abuse shall include the name of the person making the report, the name, address, and age of the elder, the nature and extent of the elderly person's condition, and any other information, including information that led the person to suspect elder abuse, requested by the elder protective agency.

(b) Information relevant to the incident of elder abuse may also be given to an investigator from an elder protective agency who is investigating the suspected case of elder abuse.

(c) The identity of all persons who report under this chapter shall be confidential and disclosed only by court order or between elder protective agencies. Persons who may report pursuant to subdivision (b) of Section 9381 are not required to include their names.

(d) The written reports required for the reporting procedures, as defined in this chapter, shall be submitted not later than April 1, 1984, on forms adopted by the State Department of Social Services after consultation with representatives of the various professional medical associations, hospital associations, and county probation or welfare departments. These forms shall be distributed by the elder protective agencies.

(e) In any court proceeding or administrative hearing, neither the physician-patient privilege nor the psychotherapist-patient privilege applies to the specific information required to be reported pursuant to this chapter. Nothing in this chapter shall be interpreted as requiring an attorney to violate his or her oath and duties pursuant to Section 6067 and subdivision (e) of Section 6068 of the Business

and Professions Code, and Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

9383. (a) If a telephone report made pursuant to subdivision (a) of Section 9381 is received by an elder protective agency other than the appropriate law enforcement agency, the receiving agency shall relay the information to the law enforcement agency by telephone as soon as possible.

(b) An elder abuse victim may refuse or withdraw consent at any time to an investigation or the provision of protective services by an elder abuse agency. The agency shall act only with the consent of the victim unless a violation of the Penal Code has been alleged.

(c) If the elder abuse victim is so incapacitated that he or she cannot legally give or deny consent to protective services, a petition for temporary conservatorship or guardianship may be initiated in accordance with Section 2250 of the Probate Code.

9384. Each county shall report to the State Department of Social Services on the number of reports of abuse received pursuant to this chapter. The department shall determine the frequency of these reports.

9385. No person making a report pursuant to subdivision (a) of Section 9381 shall be civilly or criminally liable for that report. Any other person reporting a suspected instance of elder abuse shall not incur civil or criminal liability as a result of any report authorized by this chapter unless it can be proved that the report was falsely made and the person knew or should have known that the report was false.

9386. Any person who knowingly fails to report as required by subdivision (a) of Section 9381 is guilty of a misdemeanor and is punishable by a fine of not more than one thousand dollars ($1,000). Evidence of a final judgment adjudging a person guilty of a crime under this section is inadmissible when offered in a civil action to prove any fact essential to the civil action, whether or not the final judgment was based upon a plea of nolo contendere.

SEC. 3. Section 15610 of the Welfare and Institutions Code is amended to read:

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 forsaking 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 is between the ages of 18 and 64 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.

SEC. 4. Section 15620 of the Welfare and Institutions Code is

amended to read:

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 as defined in Section 9380. The State Department of Social Services shall design the report form for dependent adult abuse by April 1, 1983. The counties, or the designated contract agency shall begin using the form by January 1, 1984.

SEC. 5. Section 15621 of the Welfare and Institutions Code is amended to read:

15621. The evaluation and report shall include, but not be limited to, the following areas of inquiry relating to dependent adult abuse, and abuse of the elderly, as defined in Section 9380:

(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 or elderly 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 or elderly 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.

SEC. 6. Section 15631 of the Welfare and Institutions Code is amended to read:

15631. The County Board of Supervisors may designate a

voluntary or private nonprofit community agency to receive reports filed pursuant to this article and pursuant to Chapter 4.5 (commencing with Section 9380) of Division 8.5.

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 Sections 9380 and 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. 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. 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 1274

An act to amend, repeal, and add Section 1048 of, and to add Section 1050 to, the Military and Veterans Code, relating to the Veterans' Home of California, and making an appropriation therefor.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983.]

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. (a) 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.

(b) This section shall remain in effect only until January 1, 1986, and on that date is repealed unless a later enacted statute which is chaptered on or before January 1. 1986, deletes or extends that date.

SEC. 2. Section 1048 is added to the Military and Veterans Code, to read:

1048. (a) 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, interest earned on invested funds, funds derived from the estates of deceased members, 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 two hundred thousand dollars ($200,000) in any one calendar year shall be paid into the General Fund.

(b) This section shall become operative on January 1, 1986.

SEC. 3. Section 1050 is added to the Military and Veterans Code, to read:

1050. The Veterans' Home Allied Council, which is established pursuant to the constitution of the Allied Council, Veterans' Home of California, and which is composed of members of the home, is hereby recognized as an established advisory body to the commandant.

CHAPTER 1275

An act to amend Section 33294 of, and to add Section 33254 to, the Food and Agricultural Code, relating to milk.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 33254 is added to the Food and Agricultural Code, to read:

33254. Any fees levied by an approved milk inspection service for dairy farm inspection shall not exceed the maximum fees provided for state established inspection.

SEC. 2. Section 33294 of the Food and Agricultural Code is amended to read:

33294. The director shall fix the fee for dairy farm and plant inspection not to exceed the actual directly related costs. Whenever the director finds that the cost of administering this chapter can be defrayed from revenue derived from lower fees, the director may adjust the fee, but in no case shall the inspection fee exceed the

following:

(a) For producers who sell market milk at wholesale which is to be sold as graded market milk, three mills ($0.003) per gallon of the first 45,000 gallons only on graded market milk which was sold during the quarter-year period preceding the date the inspection fee becomes due and payable.

(b) For distributors that purchase market milk from producers or from other distributors which is to be sold as graded market milk or that distribute their own graded market milk, three mills ($0.003) for each gallon of graded market milk which was received or so produced during the quarter-year period preceding the date the inspection fee becomes due and payable.

(c) For producers that sell market milk at wholesale, two mills ($0.002) for each gallon of ungraded market milk which was sold during the quarter-year period preceding the date the inspection fee becomes due and payable.

(d) For distributors that purchase market milk from producers or that distribute their own market milk, two mills ($0.002) for each gallon of ungraded market milk which was received or so produced during the quarter-year period preceding the date the inspection fee becomes due and payable.

(e) Notwithstanding the fee limits provided in subdivision (a), for producers identified in subdivision (a), the director may increase the inspection fee by an amount not to exceed one quarter mill ($0.00025) per gallon per annum.

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

SEC. 4. Notwithstanding Section 2231.5 of the Revenue and Taxation Code, this act does not contain a repealer, as required by that section; therefore, the provisions of this act shall remain in effect unless and until they are amended or repealed by a later enacted act.

CHAPTER 1276

An act to amend Sections 1623 and 39363 of the Education Code, relating to schools.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 1623 of the Education Code is amended to read:

1623. On or before September 7, the county board of education shall hold a public hearing on the county school service fund budget. Notice of the public hearing shall be published at least once in a newspaper of general circulation published within the county not less than 10 days prior to the date set for the hearing. The cost of publication shall be a proper and legal charge against the county school service fund and shall not exceed the rate fixed by the board of supervisors for official advertising. The published notice shall include the time, place, and purpose of the public hearing, and such other information as may be determined by the county board of education, and shall state that any taxpayer directly affected by the county school service fund budget may appear before the county board of education and speak to the proposed budget or any item therein.

Following the public hearing, the final budget shall be adopted by the county board of education and filed with the Superintendent of Public Instruction, the board of supervisors, and the county auditor.

SEC. 2. Section 39363 of the Education Code, as amended by Chapter 498 of the Statutes of 1983, is amended to read:

39363. The funds derived from the sale of surplus property shall be used for capital outlay or for costs of maintenance of school district property that the governing board of the school district determines will not recur within a five-year period. Proceeds from a lease of school district property with an option to purchase may be deposited into a restricted fund for the routine repair of district facilities, as defined by the State Allocation Board, for up to a five-year period. In addition, the proceeds may be deposited in the general fund of the district for any general fund purpose if the school district governing board and the State Allocation Board have determined that the district has no anticipated need for additional sites or building construction for the five-year period following such sale or lease, and the district has no major deferred maintenance requirements.

The proceeds may also be deposited into a special reserve fund for capital outlay, for costs of maintenance of school district property that the governing board determines will not recur within a five-year period, or for the future maintenance and renovation of school sites if the district governing board and the State Allocation Board have determined that the district has no anticipated need for school sites or building construction or major deferred maintenance projects for a five-year period following the sale or lease. Proceeds deposited in the special reserve fund shall not be available for general operating expenses as provided in Section 42842.

CHAPTER 1277

An act to amend Section 4351.5 of the Civil Code, and to amend Section 26840.3 of the Government Code, relating to family law.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 4351.5 of the Civil Code is amended 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) Notwithstanding any other provision of law, in proceedings under Sections 4450 and 4503, the superior court has jurisdiction pursuant to Section 4601 to award reasonable visitation rights to a person who is a grandparent of a minor child of a party to the marriage, if visitation by that person is determined to be in the best interests of the minor child.

(c) If a stepparent or grandparent 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.

(d) 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.

(e) 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 that the interview is appropriate or necessary.

(f) 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 shall be conducted pursuant to

Section 4602, or that other action shall 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 shall 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.

(g) A natural or adoptive 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.

(h) 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 or adoptive parent and the stepparent or grandparent seeking visitation rights shall be given an opportunity to appear and be heard on that issue.

(i) Notice of mediation and of any hearing to be held pursuant to this section shall be given to the stepparent or grandparent 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.

(j) Any visitation right granted to a stepparent or grandparent 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.

(k) There shall be a rebuttable presumption affecting the burden of proof that the visitation of a grandparent is not in the best interests of a minor child if the parties to the marriage agree that the grandparent should not be awarded visitation rights.

(*l*) In making an award of visitation pursuant to this section, if an order has been directed to a stepparent or grandparent pursuant to paragraph (2), (3), or (6) of subdivision (a) of Section 4359 or Sections 7020 and 7021 of this code, or Section 546 or 547 of the Code of Civil Procedure, during the pendency of the proceeding, the court shall consider whether the best interests of the child require that any visitation by that stepparent or grandparent should be denied.

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). In addition to the amount otherwise authorized by this paragraph, the superior court may increase that fee for filing such a petition, and the fee for a response thereto, by an additional five dollars ($5) for the mediation services required by the amendments to Section 4351.5 of the Civil Code enacted at the 1983–84 Regular Session of the Legislature.

(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 1278

An act to add Article 7 (commencing with Section 18510) to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, relating to income taxation, and making an appropriation therefor.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Article 7 (commencing with Section 18510) is added to Chapter 17 of Part 10 of Division 2 of the Revenue and Taxation Code, to read:

Article 7. Designations to United States Olympic Committee Fund

18510. (a) Any taxpayer may designate on the tax return that a contribution in excess of the tax liability, if any, be made to the

United States Olympic Committee Fund, which is hereby created. The contribution shall be in full dollar amounts and may be made individually by each signatory on a joint return.

(b) A designation under subdivision (a) shall be made with respect to any taxable year on the individual return for that taxable year, and once made shall be irrevocable. In the event that payments and credits reported on the return, together with any other credits associated with the taxpayer's account do not exceed the taxpayer's liability, if any, shown thereupon, the return shall be treated as though no designation had been made. Overpayments which are insufficient to satisfy the total amount designated shall be allocated among the designees on a pro rata basis. In the event a fund, person, or account which is not authorized by statute is designated or if no designee is specified, the contribution shall be transferred to the General Fund after reimbursement of the Franchise Tax Board and the Controller pursuant to Section 18512. The taxpayer shall be notified in cases where the discrepancy between the amount actually available for designation and the amount designated exceeds ten dollars ($10).

(c) The Franchise Tax Board shall design the forms and instructions to ensure effective administration of this article.

(d) No deduction shall be allowed under Article 6 (commencing with Section 17201) of Chapter 3 of Part 10 of Division 2 for any contribution made pursuant to subdivision (a).

18511. (a) The Franchise Tax Board shall determine annually the total amount designated pursuant to this article and shall notify the Controller of the amounts to be transferred to the Contribution Fund, which is hereby created.

(b) The Controller shall transfer from the Contribution Fund to the United States Olympic Committee an amount not in excess of the sum of the amounts designated by individuals pursuant to subdivision (a).

18512. Notwithstanding Section 13340 of the Government Code, all money transferred to the Contribution Fund is hereby continuously appropriated to the Controller, without regard to fiscal years, for allocation as follows:

(a) To the Franchise Tax Board and the Controller for reimbursement of all costs incurred by the Franchise Tax Board and the Controller in connection with their duties under this article.

(b) To the United States Olympic Committee to carry out the functions and duties of that committee.

18513. The provisions of this article shall be applicable to taxes paid and refunds payable for the 1983 tax year and taxable years thereafter.

CHAPTER 1279

An act to amend Sections 67002, 67005, 67006, 67034, 67051, 67053, 67056, 67091, 67092, 67093, 67104, 67111, and 67112 of, and to add Sections 67113 and 67114 to, the Food and Agricultural Code, relating to avocados.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 67002 of the Food and Agricultural Code is amended to read:

67002. As an exotic tropical fruit, the avocado is not heavily consumed in major portions of this country. Opportunity exists for continued growth and expansion of the industry, by creating new markets in these areas. The success of such an expansion program is uniquely dependent upon effective advertising, promotion, and collection and dissemination of public information, since the creation of new markets is essentially a matter of educating and informing people of the use, nutritional value, and availability of a previously unknown or unrecognized food.

SEC. 2. Section 67005 of the Food and Agricultural Code is amended to read:

67005. A commission form of administration created by this chapter is designed to deal with the broad fields of advertising, promotion, production research, the collection and dissemination of crop volume and related statistics, and related marketing research.

SEC. 3. Section 67006 of the Food and Agricultural Code is amended to read:

67006. No action taken by the commission, nor by any person in accordance with this chapter or with rules or regulations adopted under the chapter, is a violation of the so-called Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of that Part 2), the Fair Trade Act (Chapter 3 (commencing with Section 16900) of that Part 2), or any statutory or common law against monopolies or combinations in restraint of trade.

SEC. 4. Section 67034 of the Food and Agricultural Code is amended to read:

67034. "Marketing research" means any research relating to the sale or inventory of avocados.

SEC. 5. Section 67051 of the Food and Agricultural Code is amended to read:

67051. There is in the state government the California Avocado Commission. The commission shall be composed of 10 avocado producers who are not handlers, four avocado handlers, and one

public member. Five producers, one from each district, shall be elected by and from producers not affiliated with any cooperative handling avocados. The other five producers, one from each district, shall be elected by and from producers affiliated with any cooperative handling avocados. Two handlers shall be elected by and from, handlers who are not within any cooperative handling avocados. The other two handlers shall be elected by and from cooperatives handling avocados.

Initially, the public member shall be elected on the commission within 90 days after the first meeting of the commission, by the majority vote of the producers and handlers on the commission, from not less than five nominees recommended by the Director of Consumer Affairs. Thereafter, the public member shall be appointed to the commission by the director from nominees recommended by the commission.

The Director of Food and Agriculture shall be a nonvoting ex officio member of the commission.

SEC. 6. Section 67053 of the Food and Agricultural Code is amended to read:

67053. Any vacancy on the commission occurring for any reason including 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 or her ineligible to serve, or through death, removal, or resignation, shall be filled, for the unexpired portion of the term, by the commission by majority vote. However, that member shall fulfill all the qualifications set forth in this article as required for the member whose office he or she is to fill. Qualification of any member on the commission to fill vacancies shall be certified, in writing, by the director.

SEC. 7. Section 67056 of the Food and Agricultural Code is amended to read:

67056. The commission shall be and is hereby declared and created a corporate body. It has the power to sue and be sued, to contract and be contracted with, and has and possesses all of the powers of a corporation. It may adopt a corporate seal. Copies of its proceedings, records, and acts, when certified by its secretary, are admissible in evidence in all courts of the state, and are prima facie evidence of the truth of all statements therein.

SEC. 8. Section 67091 of the Food and Agricultural Code is amended to read:

67091. The powers and duties of the commission 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 rules, regulations, and orders to carry out this chapter and in the exercise of its powers and the performance of its duties, including the adoption of rules to regulate appeals from any 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, proper, or advisable to effectuate the purposes of this chapter.

(c) To employ a person, to serve, at the pleasure of the commission, as president and chief executive officer of the commission and other personnel, including legal counsel, that are necessary to carry out this chapter.

SEC. 9. Section 67092 of the Food and Agricultural Code is amended to read:

67092. The powers or duties of the commission also include all of the following:

(a) To establish offices, incur expenses, enter into any and all contracts and agreements, and create liabilities and borrow funds in advance of receipt of assessments that may be necessary, in the opinion of the commission, for the proper administration and enforcement of this chapter and the performance of its duties.

(b) To keep accurate books, records, and accounts of all of its dealings, which books, records, and accounts are subject to an annual independent audit by an auditing firm approved by the director. The independent audit shall be made a part of an annual report to all producers and handlers of avocados, copies of which shall also be submitted to the Legislature. In addition, the director may, as he or she determines necessary, conduct, or cause to be conducted, a fiscal and compliance audit of the commission.

(c) To promote the sale of avocados by advertising and other promotional means for the purpose of maintaining and expanding present markets and creating new and larger intrastate, interstate, and foreign markets for avocados and to educate and instruct the public with respect to avocados and the uses and time to use the several varieties and the healthful properties and nutritional value of avocados.

(d) To enter into cost-sharing advertising with other products considered, by the commission, to be fair and equitable to both parties.

SEC. 10. Section 67093 of the Food and Agricultural Code is amended to read:

67093. The powers or duties of the commission shall also include the following:

(a) In the discretion of the commission, to educate and instruct the wholesale and retail trade with respect to proper methods of handling and selling avocados; to arrange for the performance of dealer service work providing display and other promotional materials; to make market and inventory surveys and analyses; to present facts to and negotiate with state, federal, and foreign agencies on matters which affect the marketing of avocados; and to undertake any other activities which the commission may determine appropriate for the maintenance and expansion of present markets and the creation of new markets for avocados.

(b) In the discretion of the commission, to make, in the name of the commission, contracts to render service in formulating and

conducting plans and programs, and any other contracts or agreements that the commission may deem necessary for the promotion of the sale of avocados.

(c) In the discretion of the commission, to conduct, and contract with others to conduct, scientific research, including the study, analysis, dissemination, and accumulation of information obtained from the research or elsewhere respecting the inventory, marketing, and distribution of avocados. In connection with the research, the commission shall have the power to accept contributions of, or to match, private, state, or federal funds that may be available for these purposes, and to employ or make contributions of funds to other persons or state or federal agencies conducting the research.

(d) In the discretion of the commission, to publish and distribute, without charge, a bulletin or other communication for dissemination of information relating to inventory, marketing, and other information of value to the commission and the avocado industry to producers, handlers, and the public.

(e) To establish an assessment rate to defray operating costs of the commission.

(f) To establish an annual budget.

(g) To investigate and prosecute civil violations of this chapter and file complaints with appropriate law enforcement agencies or officers for suspected criminal violations of this chapter.

SEC. 11. Section 67104 of the Food and Agricultural Code is amended to read:

67104. All the proprietary information obtained by the commission or the director from handlers is confidential and shall not be disclosed except when required in a judicial proceeding. Information on volume shipments, inventory, crop value, and any other information which is required for reports to governmental agencies and the commission, and other information which the handlers request from the commission that gives only totals, excluding individual handler information, may be disclosed by the commission so long as the information excludes individual handler data which shall be kept confidential as provided in this section.

SEC. 12. Section 67111 of the Food and Agricultural Code is amended to read:

67111. It shall be a misdemeanor punishable by imprisonment in the county jail not exceeding six months, 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 avocados or in the wholesale or retail trade of avocados, 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 or she has received avocados and the quantity and inventory, by variety, of the avocados.

(c) Secrete, destroy, or alter records required to be kept under the provisions of this chapter.

SEC. 13. Section 67112 of the Food and Agricultural Code is amended to read:

67112. 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 that purpose. One member of the commission, or the committee of the commission, shall serve as clerk of the hearing, and shall keep a written record of appearances at the hearing, documents filed, and a summary of oral presentations. The determination made at the hearing shall be communicated in writing by the clerk to the participants in the hearing. Appeals from decisions the commission made after the hearing, may be made to the director, who shall sustain the decision of the commission, if he or she determines that it is supported by substantial evidence and was not an abuse of discretion or the result of improper procedures. The determination of the director is subject to judicial review upon a petition filed with the appropriate superior court.

The commission may commence civil actions and utilize all remedies provided in law or equity for the collection of assessments and civil penalties, and to obtain injunctive relief or specific performance, with respect to this chapter and the rules and regulations adopted under this chapter. The commission is entitled, upon a favorable verdict for the commission, to receive reimbursement for any reasonable attorney's fees and other actual related costs incurred in any action commenced by the commission for the enforcement of this chapter. However, this section does not authorize attorney's fees and other actual related costs for any action commenced prior to January 1, 1980. Venue for actions commenced by the commission 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. All documents required to be executed by the commission, for the purpose of legal action or otherwise, are effective if executed by the chairperson and the president-chief executive officer or three members of the commission designated by the commission to so act.

SEC. 14. Section 67113 is added to the Food and Agricultural Code, to read:

67113. It is not necessary for the commission to allege or prove that an adequate remedy at law does not exist in any action brought under this chapter.

SEC. 15. Section 67114 is added to the Food and Agricultural Code, to read:

67114. This chapter shall be liberally construed. If any section, clause, or part of this chapter is for any reason held to be unconstitutional or invalid as applied to any person or as applied under certain circumstances, that decision shall not affect the

remaining portions of this chapter or the application of this chapter to any other persons or under any other circumstance.

SEC. 16. 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 1280

An act to amend Sections 33211 and 33215 of, and to add Sections 33204.7 and 33205.5 to, the Public Resources Code, relating to the Santa Monica Mountains Conservancy.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 33204.7 is added to the Public Resources Code, to read:

33204.7. On January 1, 1984, the Department of Parks and Recreation shall transfer Fryman Canyon, which was acquired pursuant to Section 4 of Chapter 809 of the Statutes of 1980, to the conservancy. Fryman Canyon shall be deemed to have been acquired by the conservancy pursuant to Section 33204, but may be transferred by the conservancy only to the National Park Service, without payment of any compensation, in accordance with Section 33205.

SEC. 2. Section 33205.5 is added to the Public Resources Code, to read:

33205.5. (a) Notwithstanding any other provision of law, concurrent with the transfers described in subdivision (b), the Department of Parks and Recreation shall transfer Stunt Ranch, which was acquired pursuant to Section 3 of Chapter 1305 of the Statutes of 1980, to the conservancy, and Stunt Ranch shall be deemed to have been acquired by the conservancy pursuant to Section 33204. Subject to the approval of the Director of Parks and Recreation, the conservancy, not sooner than January 1, 1986, may transfer in fee only to the National Park Service to be used for the benefit of the state park system, without payment of compensation, in accordance with Section 33205 of the Public Resources Code, that portion of Stunt Ranch not transferred to the regents pursuant to subdivision (c), subject to rights reserved to the regents by subdivision (c). If operating funds for Stunt Ranch become available

to the Department of Parks and Recreation prior to a transfer to the National Park Service, the conservancy shall, upon the request of the Director of Parks and Recreation, retransfer the property, without payment of compensation, to the Department of Parks and Recreation and the property shall be operated as a unit of the state park system, subject to rights reserved to the regents by subdivision (c).

(b) If the conservancy acquires property of the regents commonly known as "362 acres more or less in Upper Temescal Canyon" (hereafter called Upper Temescal Canyon) and "40 acres more or less in Arroyo Sequit" (hereafter called Arroyo Sequit property), the executive director, on behalf of the conservancy, shall do the following:

(1) Transfer Upper Temescal Canyon to the Department of Parks and Recreation as an addition to Topanga State Park.

(2) Offer to transfer, without compensation, the Arroyo Sequit property to the Department of Parks and Recreation for state park system purposes. If the department does not accept the offer of the Arroyo Sequit property within a reasonable time, the conservancy may transfer the Arroyo Sequit property in fee to the National Park Service to be used for the benefit of the state park system, without payment of compensation, in accordance with Section 33205.

(c) If the conservancy acquires the properties specified in subdivision (b) by March 1, 1984, the executive director of the conservancy shall transfer in fee that portion of Stunt Ranch as may be needed by the regents for scientific and educational purposes, upon terms mutually agreed upon by the executive director, on behalf of the conservancy, and the regents. The Department of General Services shall appraise Upper Temescal Canyon, the Arroyo Sequit property, and the Stunt Ranch property and the costs of the appraisal shall be borne equally by the conservancy and the regents. The executive director, on behalf of the conservancy, the Director of Parks and Recreation, and the regents shall each certify that the properties transferred to and offered to the Department of Parks and Recreation pursuant to subdivision (b) are of equivalent value to that portion of Stunt Ranch transferred to the regents pursuant to this subdivision. Subject to the approval of the Director of Parks and Recreation, the executive director shall also execute an agreement with the regents, which shall be effective upon execution, for the use of such other areas of Stunt Ranch as may be necessary for scientific and educational purposes. The agreement may provide that any transfer of other portions of Stunt Ranch to the National Park Service or to the Department of Parks and Recreation shall reserve to the regents the right to continue scientific and educational use under substantially the same conditions as existed prior to the transfer.

(d) The Legislature finds and declares that the transfers of and reservations of rights in, property provided for by this section are in the public interest, further the objectives of, and benefit, the state park system, and further the interest in protecting the Santa Monica

Mountains Zone as declared in Section 33001.

(e) In the event of any conflict between Sections 92671 to 92673, inclusive, of the Education Code and this section, the provisions of this section shall prevail.

(f) Notwithstanding the provisions of the Property Acquisition Law (Part 11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code) and any other provision of law, the executive director of the conservancy may take such actions as are necessary to carry out the provisions of this section.

SEC. 3. Section 33211 of the Public Resources Code is amended to read:

33211. The conservancy may:

(a) Accept any gifts, donations, or bequests from individuals, corporations, or organizations, or accept grants of funds from private or public agencies. A gift of personal property otherwise required to be approved by the Director of Finance pursuant to Section 11005 of the Government Code is deemed approved, unless it is disapproved within 60 days of receipt of a request from the executive director of the conservancy to approve the gift. A gift of real property shall be submitted by the executive director to the Department of General Services for its review. The Department of General Services shall complete its review within 30 days of receipt of a completed request and shall transmit the request for approval to the Director of Finance within that period. Unless the gift of real property is disapproved by the Director of Finance within 30 days of its receipt of the request, the gift is deemed approved pursuant to Section 11005 of the Government Code.

(b) Contract for professional services required by the conservancy or for the performance of work and services which in its opinion cannot satisfactorily be performed by its officers and employees or by other federal, state, or local governmental agencies.

(c) Do any and all other things necessary to carry out the purposes of this division.

(d) Sue and be sued.

SEC. 4. Section 33215 of the Public Resources Code is amended to read:

33215. The Santa Monica Mountains Conservancy Fund is hereby established. Notwithstanding Section 13340 of the Government Code, deposits into the fund made pursuant to Sections 33202, 33203, 33204, 33205, and 33206 shall continue to be available for the purposes of this division. A separate federal grant account shall be established within the fund. Grants received pursuant to Section 507(n) of the National Parks and Recreation Act of 1978 (16 U.S.C. Sec. 460kk(n)) shall be deposited in the separate federal grant account.

SEC. 5. The Legislature finds and declares that this act is necessary to acquire critically needed parkland in the Santa Monica Mountains Zone, and, in the event of any conflict with the provisions of this act and any other law, the provisions of this act relating to the authority of the Executive Director of the Santa Monica Mountains

Conservancy to acquire property on behalf of the conservancy shall govern.

CHAPTER 1281

An act to amend Sections 16110, 43005.7, and 51155 of the Government Code, to amend Section 4582.8 of the Public Resources Code, and to amend Sections 110.1, 167, 172.1, 228, 255.8, 273.5, 275, 276, 423.7, 434, 2052, 2192.1, 2325, 2752, 3728, 3729, 3793.5, 3808, 4703, 4712, 4876, 4876.5, 4991, 5145, 5783, 10759.5, 10760, 38402, and 38903 of, to add Section 868 to, to repeal and add Section 5814 to, and to repeal Sections 995.1, 3445, 5815, 5816, 5817, 5818, 5819, 5820, and 38107 of, the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 16110 of the Government Code is amended to read:

16110. (a) It is the purpose of this chapter to provide replacement revenues to local government by reason of the repeal or reduction of the property tax on the following classes of property affected by the following provisions of the Revenue and Taxation Code: (1) business inventories under Section 219; (2) motion pictures under Section 988; and (3) wine and brandy under Section 992.

(b) If for any reason, Section 226 of the Revenue and Taxation Code should be invalid or inapplicable, no state revenues shall be paid under this chapter on escape assessments for any assessment year prior to the 1976–1977 assessment year on any property formerly deemed exempt from taxation under statutory and case law existing prior to the decision in Michelin v. Wages (1976), 46 L. Ed. 2d 495.

SEC. 4. Section 43005.7 of the Government Code is amended to read:

43005.7. Notwithstanding any other provision of law to the contrary, the legislative body of a city which collects its own taxes may by ordinance waive any penalties and interest on the second half of taxes, unpaid and delinquent at 5 p.m. on April 12, 1965, on any property damaged in excess of five hundred dollars ($500) by storms and floods occurring between December 1, 1964, and January 30, 1965, in an area proclaimed by the Governor to be in a state of disaster. With respect to those penalties and interest, the waiver shall constitute a complete relinquishment of all legal claim thereto by the city.

Any ordinance adopted pursuant to this section shall waive all

those penalties and interest on taxes due the city, effective at 5 p.m. on April 12, 1965, and for all time thereafter, but shall not operate to reduce any tax delinquent at that time.

SEC. 5. Section 51155 of the Government Code is amended to read:

51155. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land zoned as timberland production is filed or when that land is acquired in lieu of eminent domain for a public agency or person or whenever there is any such action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government, the parcel shall be deemed immediately rezoned (pursuant to Section 51130) as to the land actually being condemned or so acquired as of the date the action is filed and for the purposes of establishing the value of the land, the timberland production zone (TPZ) shall be deemed never to have existed.

Upon the termination of such a proceeding, the parcel shall be immediately rezoned for all land actually taken or acquired.

When an action to condemn or acquire less than all of a parcel of land subject to a TPZ is commenced, the parcel shall be deemed immediately rezoned as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to the TPZ will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the TPZ.

When an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to a TPZ is commenced, the parcel shall be deemed immediately rezoned as to that interest and for the purpose of establishing the value of that interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the TPZ will be adversely affected, in which case the value of that damage shall be computed without regard to the TPZ.

The land actually taken shall be removed from the TPZ. Under no circumstances shall land be removed that is not actually taken, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the parcel may be immediately rezoned with respect to the remaining portion or interest upon petition of either party, and pursuant to the provisions of Article 4 (commencing with Section 51130).

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the TPZ is continued on the remaining portion or interest in the land may satisfy the requirements of subdivisions (a), (b), and (c) of Section 51134, and subdivisions (a), (b), and (c) of Section 4621.2 of the Public Resources Code.

SEC. 6. Section 4582.8 of the Public Resources Code is amended to read:

4582.8. Within 10 days after a timber harvesting plan is deemed

in conformance under Section 4582.7, or within 10 days after receipt of a notice of timber operations, the director shall transmit copies thereof to the State Board of Equalization.

SEC. 8. Section 110.1 of the Revenue and Taxation Code is amended to read:

110.1. (a) For purposes of subdivision (a) of Section 2 of Article XIII A of the California Constitution, "full cash value" of real property, including possessory interests in real property, means the fair market value as determined pursuant to Section 110 for either:

(1) The 1975 lien date; or,

(2) For property which is purchased, is newly constructed, or changes ownership after the 1975 lien date:

(A) The date on which a purchase or change in ownership occurs; or

(B) The date on which new construction is completed, and if uncompleted, on the lien date.

(b) The value determined under subdivision (a) shall be known as the base year value for the property.

(c) Notwithstanding any provisions of Section 405.5, for property which was not purchased or newly constructed or has not changed ownership after the 1975 lien date, if the value as shown on the 1975–76 roll is not its 1975 lien date base year value and if the value of that property had not been determined pursuant to a periodic reappraisal under Section 405.5 for the 1975–76 assessment roll, a new 1975 lien date base year value shall be determined at any time until June 30, 1980, and placed on the roll being prepared for the current year; provided, however, that for any county over 4 million in population the board of supervisors may adopt a resolution granting the assessor of that county until June 30, 1981, the authority to determine those values. In determining the new base year value for that property, the assessor shall use only those factors and indicia of fair market value actually utilized in appraisals made pursuant to Section 405.5 for the 1975 lien date. The new base year values shall be consistent with the values established by reappraisal for the 1975 lien date of comparable properties which were reappraised pursuant to Section 405.5 for the fiscal year. In the event that determination is made, no escape assessment may be levied and the newly determined "full cash value" shall be placed on the roll for the current year only; provided, however, the preceding shall not prohibit a determination which is made prior to June 30 of a fiscal year from being reflected on the assessment roll for the current fiscal year.

(d) If the value of any real property as shown on the 1975–76 roll was determined pursuant to a periodic appraisal under Section 405.5, that value shall be the 1975 lien date base year value of the property.

(e) As used in subdivisions (c) and (d), a parcel of property shall be presumed to have been appraised for the 1975–76 fiscal year if the assessor's determination of the value of the property for the 1975–76 fiscal year differed from the value used for purposes of computing

the 1974–75 fiscal year tax liability for the property, but the assessor may rebut that presumption by evidence that, notwithstanding the difference in value, that parcel was not appraised pursuant to Section 405.5 for the 1975–76 fiscal year.

(f) For each lien date after the lien date in which the full cash value is determined pursuant to this section, the full cash value of real property, including possessory interests in real property, shall reflect the percentage change in cost of living, as defined in Section 2212; provided, that the value shall not reflect an increase in excess of 2 percent of the full cash value of the preceding lien date.

SEC. 9. Section 167 of the Revenue and Taxation Code is amended to read:

167. Notwithstanding any other provision of law to the contrary, there shall be a rebuttable presumption affecting the burden of proof in favor of the taxpayer or assessee who has supplied all information as required by law to the assessor in any administrative hearing involving the imposition of a tax on an owner-occupied single-family dwelling or the assessment of an owner-occupied single-family dwelling pursuant to this division.

SEC. 10. Section 172.1 of the Revenue and Taxation Code is amended to read:

172.1. (a) To claim tax relief in accordance with the provisions of this chapter, the owner shall execute an declaration under penalty of perjury that the replaced mobilehome was destroyed by a disaster declared by the Governor and shall furnish with that declaration any other information, prescribed by the Department of Housing and Community Development after consultation with the California Assessors' Association, as is necessary to establish eligibility for relief under this chapter.

To be eligible for relief under this chapter, the replacement mobilehome must be comparable in size, utility, and location, as determined by the county assessor, with the destroyed mobilehome.

For purpose of this section, "destroyed" means damaged to such an extent that the cost of repair to the mobilehome would exceed its value at that time immediately preceding its destruction, or the mobilehome is declared a total loss for insurance purposes.

(b) If the replacement mobilehome is subject to local property taxation, the affidavit and documentation required by subdivision (a) shall be forwarded to the assessor of the county of situs. If the assessor determines that the owner of the replacement mobilehome is eligible for tax relief in accordance with the provisions of this chapter, the assessor shall, notwithstanding any other provision of law, do either of the following:

(1) If the destroyed mobilehome was subject to the vehicle license fee, enroll the replacement mobilehome with an assessed valuation so that the local property taxes paid shall be the same amount as the vehicle license fee and registration fee due on the destroyed mobilehome for the year prior to its destruction.

(2) If the destroyed mobilehome was subject to local property

taxation, enroll the replacement mobilehome at a taxable value equal to the taxable value of the destroyed mobilehome at the time of its destruction.

(c) If the assessor determines that the owner of the replacement mobilehome is not eligible for tax relief in accordance with the provisions of this chapter, the replacement mobilehome shall be assessed in accordance with Part 13 (commencing with Section 5800).

(d) If the replacement mobilehome is subject to vehicle license fee, the affidavit and documentation required by subdivision (a) shall be forwarded to the Department of Housing and Community Development. If the department determines that the owner is eligible for tax relief in accordance with the provisions of this chapter, the department shall do either of the following:

(1) If the destroyed mobilehome was subject to the vehicle license fee, assign an in-lieu taxation classification and rating year for determination of depreciation such that the owner of the replacement mobilehome will be charged registration and license fees no greater than those he or she would have been charged for the destroyed mobilehome.

(2) If the destroyed mobilehome was subject to local property taxation, assign an in-lieu taxation classification and rating year for determination of depreciation such that the owner of the replacement mobilehome will be charged registration and license fees equal to local property taxes paid on the destroyed mobilehome for the year prior to its destruction.

(e) If the department determines that a replacement mobilehome subject to vehicle license fee is not eligible for tax relief in accordance with the provisions of this chapter, the vehicle license fee for the replacement mobilehome shall be determined in accordance with the provisions of Sections 18115 and 18115.5 of the Health and Safety Code.

(f) If the tax on a replacement mobilehome determined in accordance with subdivision (b) or (d) is greater than the tax would be if determined without reference to this chapter, the lesser amount shall be levied.

(g) If a mobilehome subject to tax relief in accordance with the provisions of this chapter is subsequently sold or transferred to another party, the subsequent owner shall not receive this tax relief unless he or she is eligible in his or her own right for that relief.

SEC. 11. Section 228 of the Revenue and Taxation Code is amended to read:

228. (a) A vessel with a market value of four hundred dollars ($400) or less shall be free from taxation. This section shall only apply to vessels used or held for noncommercial purposes and shall not apply to lifeboats or other vessels used in conjunction with operations of vessels with a market value of more than four hundred dollars ($400). This section shall not apply to more than one vessel owned, claimed, possessed, or controlled by an assessee on the lien date.

(b) For purposes of this section, "vessel" includes every description of watercraft used or capable of being used as a means of transportation on water, except vessels described in paragraphs (1) and (2) of subdivision (c) of Section 651 of the Harbors and Navigation Code.

(c) For purposes of this section, "vessel" includes all equipment, including mode of power, and furnishings that are normally required aboard the vessel during the accomplishment of the functions for which the vessel is being utilized.

SEC. 12. Section 255.8 of the Revenue and Taxation Code is amended to read:

255.8. In counties having 10 percent or more persons who are of Spanish origin according to the most recent federal decennial census, claim forms and accompanying instructions required to be sent to homeowners by Section 255.3 shall be in English and Spanish. Claim forms and instructions in Spanish may also be sent or made available in any other county, at the discretion of the county assessor.

SEC. 13. Section 273.5 of the Revenue and Taxation Code is amended to read:

273.5. (a) If a claimant for the veterans' exemption for the 1976–77 fiscal year or any year thereafter fails to file the required affidavit with the assessor by 5 p.m. on April 15 of the calendar year in which the fiscal year begins, but files such claim on or before the following December 1, an exemption of the lesser of three thousand two hundred dollars ($3,200) or 80 percent of the full value of the property shall be granted by the assessor.

(b) On such claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 14. Section 275 of the Revenue and Taxation Code is amended to read:

275. (a) If a claimant for the homeowners' property tax exemption fails to file the required affidavit with the assessor by 5 o'clock p.m. on April 15 of the calendar year in which the fiscal year begins, but files such claims on or before the following December 1, an exemption of the lesser of five thousand six hundred dollars ($5,600) or 80 percent of the full value of the dwelling shall be granted by the assessor.

(b) On such claims filed pursuant to subdivision (a) after November 15, this partial homeowners' exemption may be applied to the second installment, and if applied to the second installment,

the first installment will still become delinquent on December 10 and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this partial homeowners' exemption is applied to the second installment and if both installments are paid on or before December 10 or if the reduction in taxes from this partial exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

SEC. 15. Section 276 of the Revenue and Taxation Code is amended to read:

276. (a) A claimant for the disabled veterans' property tax exemption for the 1976–77 fiscal year or any year thereafter may qualify for a partial exemption if such claimant fails to file the required affidavit with the assessor by 5:00 p.m. on April 15 of the calendar year in which the fiscal year begins, but files such claims on or before the following December 1. Commencing with the 1979–80 assessment year, late-filed claims for the forty thousand dollar ($40,000) exemption provided in Section 205.5 shall receive the lesser of thirty-two thousand dollars ($32,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar ($60,000) exemption provided in Section 205.5, when filed in conjunction with the late-filed claim for the forty thousand dollar ($40,000) exemption, shall receive the lesser of forty-eight thousand dollars ($48,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar ($60,000) exemption, when filed in conjunction with timely filed claims for the forty thousand dollar ($40,000) exemption, shall receive the lesser of fifty-six thousand dollars ($56,000) or forty thousand dollars ($40,000) plus 80 percent of the full value of the dwelling over forty thousand dollars ($40,000).

(b) On such claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and the delinquent penalty provided for in this division will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

(c) This section shall be operative on January 1, 1981, and shall be applied with regard to claims filed for the 1981–82 fiscal year and fiscal years thereafter.

SEC. 16. Section 423.7 of the Revenue and Taxation Code is amended to read:

423.7. (a) When valuing open-space land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, the

board, for purposes of surveys required by Section 15640 of the Government Code, and all assessors shall value that land by using the average current per-acre value based on recent sales including the sale of an undivided interest therein, of lands subject to a wildlife habitat contract within the same county. Whenever ownership of open-space land is held by a corporation and the principal underlying asset of that corporation is represented by those lands, the price received for each bona fide sale of shares of stock in those corporations or certificates of membership in nonprofit corporations shall be treated as a sale of open-space land by the assessor in determining average value for open-space lands within the meaning of this section.

(b) In the valuation of open-space land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421, irrespective of the number of parcels represented by a single ownership, the assessor shall use sales of less than 150 acres in determining the average value of those lands only if the sale is of an undivided interest of land subject to a wildlife habitat contract as defined in subdivision (f) of Section 421. The assessor shall not use any other sale of less than 150 acres of land.

(c) In the event of sales of corporate stock or membership, as referred to in subdivision (a), the assessor shall determine the average per-acre sales price and multiply such sales price by the number of acres held under the single ownership from which the land was sold, in order to determine the current total value of the single ownership.

(d) The assessor shall then determine the average current per-acre value of that land subject to a wildlife habitat contract, as defined in subdivision (f) of Section 421, by adding the current value of all those lands including corporate sales as set forth in subdivision (c), of which there has been a recent sale, and then dividing the total current value by the total number of acres of all that land of which there has been a recent sale.

(e) Whenever less than 10 years remain to the expiration of a wildlife habitat contract, the value of land determined under subdivision (a) shall be modified pursuant to this subdivision. If the full cash value of that land as determined under Section 110.1 is greater than the value determined under subdivision (a) of this section, a pro rata share of the amount of that difference shall be added in annual equal installments to the value determined pursuant to subdivision (a) over the remaining term of the wildlife habitat contract.

(f) Owners of open-space land subject to a wildlife habitat contract which has been used exclusively for habitat by native or migratory wildlife, recreation, and native pasture shall report the sale of that land, or an interest therein, to the county assessor within 30 days of the sale.

(g) In the event that a wildlife habitat contract is canceled upon the application of an owner of the land covered by the contract, a

penalty equal to 6 percent of the full cash value of the land as determined under Section 110.1 on the lien date next following cancellation shall be imposed. The penalty shall become delinquent on the December 10 next following that lien date and shall be treated in all respects as a delinquent penalty imposed under Section 2617 or 2704. This subdivision shall not apply when a wildlife habitat contract is canceled without the consent of an owner of the land affected.

(h) The provisions of Section 426 shall not apply to any lands valued for assessment purposes pursuant to the provisions of this section.

(i) The assessor shall not value any land under a single ownership under this section unless the owners of that land have provided the assessor with a schedule of sales of that land that have occurred during the previous four years.

(j) If there are no prior sales within the county of open-space land subject to a wildlife contract and used exclusively for habitat by native or migratory wildlife, recreation, and native pasture, the assessor shall value the land pursuant to Section 110.1.

(k) Unless a party to an instrument which creates an enforceable restriction expressly prohibits that valuation, the valuation resulting from the method described in this section shall not exceed the valuation that would have resulted by calculation under Section 110.1, as though the property was not subject to an enforceable restriction in the base year.

SEC. 17. Section 434 of the Revenue and Taxation Code is amended to read:

434. On or before September 1, 1976, the board after consultation with the Timber Advisory Committee shall prepare instructions setting forth temporary criteria and procedures for grading timberland on the basis of its site quality and operability. Five general site quality classes shall be established. These classes shall be the same as those adopted by the Board of Forestry pursuant to subdivision (d) of Section 4528 and Section 4551 of the Public Resources Code. Within each of the five site quality classes, appropriate classes of operability shall be established, based on factors such as accessibility, topography, and legislative or administrative restraints. On or before December 31, 1979, these classes shall be designated as operative or inoperative. Commencing with January 1, 1980, the board shall determine appropriate designations of operability. On or before March 1, 1977, each assessor shall grade all timberland within the county on the basis of these instructions. The assessor's grading is subject to the appeals procedure established by law for other assessments, as provided in Chapter 4 (commencing with Section 721) of Part 2 and Chapter 1 (commencing with Section 1601) of Part 3.

SEC. 18. Section 868 is added to the Revenue and Taxation Code, to read:

868. If, before the expiration of the time prescribed in Section 866

for making an escape assessment, the taxpayer has consented in writing to allow an assessment after that time, the assessment may be made by the board at any time prior to the expiration of the period agreed upon. The period may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

SEC. 19. Section 995.1 of the Revenue and Taxation Code is repealed.

SEC. 20. Section 2052 of the Revenue and Taxation Code is amended to read:

2052. The local roll as delivered to the auditor pursuant to Section 617, including any changes made by the county board during the month of July, together with the board roll as transmitted to the auditor pursuant to Section 756 and the estimate with any changes transmitted pursuant to Section 755, shall become the last equalized roll on August 20, and such rolls together shall continue to be the last equalized roll, except as otherwise provided in this chapter, (a) for the purpose of computing any debt limit for the issuance of bonds of any public entity that is based on a percentage of assessed valuation as shown on the last equalized assessment roll and (b) for all other purposes, until the assessment roll for the following year becomes the last equalized roll in accordance with the provisions of this section.

SEC. 21. Section 2192.1 of the Revenue and Taxation Code is amended to read:

2192.1. Every tax declared in this chapter to be a lien on real property, and every public improvement assessment declared by law to be a lien on real property, have priority over all other liens on the real property, regardless of the time of their creation.

SEC. 22. Section 2325 of the Revenue and Taxation Code is amended to read:

2325. Annually, no later than 15 days after the property tax rate for a local agency has been fixed, each local agency shall report to the Controller, on a form to be specified by the Controller, the property tax rate levied by, or on behalf of, the agency for the current fiscal year. That information shall show the amount of the rate, if any, levied pursuant to Sections 2260, 2261, 2262, 2263, 2263.1, 2263.2, 2264, 2265, 2266, 2266.1, 2267, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279 and 2280. That information shall also show any property tax rate authorized or levied pursuant to the provisions of Article 6 (commencing with Section 2285), Article 7 (commencing with Section 2295), and Article 8 (commencing with Section 2305). Information with respect to any rate levied pursuant to Section 2270 shall also indicate the rate levied to pay interest and redemption charges on bonded indebtedness, the rate levied to pay the cost of retirement and pension benefits and the rate levied to make payments to special funds as required by charter. The Controller shall, by regulation, require any tax rate exempt from rate limitations imposed by this chapter to be reported in the manner specified by this section.

SEC. 23. Section 2752 of the Revenue and Taxation Code is amended to read:

2752. Notwithstanding the provisions of Sections 2605, 2606, 2617, 2618, 2619, 2621, 2622, 2623, 2624, and 2626 of this code, if so ordered by a resolution of the board of supervisors of any county, the provisions of this chapter shall be applicable to that county, provided that the resolution must be adopted prior to the time the county auditor is required to compute and enter on the secured roll the respective amounts due in installments as taxes for the assessment year in which the resolution shall become effective. The provisions of this chapter shall then continue in effect in that county until otherwise ordered by a resolution of the board of supervisors.

SEC. 24. Section 3445 of the Revenue and Taxation Code is repealed.

SEC. 25. Section 3728 of the Revenue and Taxation Code is amended to read:

3728. Before holding any tax deed heretofore or hereafter given under this chapter or Chapter 8 (commencing with Section 3771), former Chapter 3 (commencing with Section 3475), former Chapter 4.3 (commencing with Section 3534), or former Sections 3897 and 3897d of the Political Code to be void, the court shall determine the correct amount of taxes, penalties and costs that should be paid upon redemption to discharge the tax and assessment liens of all taxing agencies and revenue districts had the purported tax sale not been held and the court shall order the former owner or other party in interest to pay that amount within six months as follows:

(a) To the purchaser, or his or her grantee or successor in interest, the amount of taxes, penalties and costs expended by him or her as determined by the court in pursuit of the state's title to the property, and when the purchaser at that sale or the grantee in any deed for taxes or his or her grantee or successor in interest is in possession of that property in good faith and claiming the property under a tax deed, which is regular upon its face, and has made permanent improvements thereon, the court shall not make that decree until there has also been repaid to the purchaser or his or her grantee or successor in interest a sum, as determined by the court, equal to the amount by which the value of the property has been enhanced by those permanent improvements; and

(b) To the county tax collector, the balance, if any, of the correct amount as determined by the court that should be paid upon redemption, which shall be distributed by the county to the taxing agencies and revenue districts as redemption money.

If the amounts are not paid in accordance with the order the court shall not hold the tax deed void.

SEC. 26. Section 3729 of the Revenue and Taxation Code is amended to read:

3729. When a court holds a tax deed given under this chapter or Chapter 8 (commencing with Section 3771), former Chapter 3 (commencing with Section 3475), former Chapter 4.3 (commencing

with Section 3534), or former Sections 3897 and 3897d of the Political Code void, the purchaser from the state is entitled to a refund from the county of the amount paid as purchase price in excess of the amount for which he has been reimbursed for taxes, penalties, and costs. The refund shall be made in the same manner as a refund of an overpayment of tax, except that the claim shall be presented within one year after the judgment becomes final.

SEC. 27. Section 3793.5 of the Revenue and Taxation Code is amended to read:

3793.5. (a) The terms of any agreement under this chapter may provide that no payment is to be made by the purchasing taxing agency at the time the property is acquired from the state but that the proceeds of a resale of the property by the purchasing taxing agency shall, after the deduction by the taxing agency of its expenses of purchase and sale, be distributed by the county under Chapter 1.3 (commencing with Section 4671) of Part 8.

(b) If the terms provided for in subdivision (a) are included in an agreement under this chapter, the agreement shall require the purchasing taxing agency to sell the property to a private purchaser within two years after the date of recordation of the deed to the taxing agency, which period may be extended by resolution of the board of supervisors for a reasonable length of time. Upon the granting of an extension, notice thereof shall be given by the clerk of the board of supervisors to the tax collector and the Controller.

SEC. 28. Section 3808 of the Revenue and Taxation Code is amended to read:

3808. Any payment required by an agreement under this chapter shall be made to the county tax collector and, except as provided for in Section 3791.5, shall be deposited, like tax collections, in the delinquent tax sale trust fund and shall be distributed under Chapter 1.3 (commencing with Section 4671) of Part 8.

SEC. 29. Section 4703 of the Revenue and Taxation Code is amended to read:

4703. In each county which elects to adopt the procedure authorized by this chapter there is hereby created a tax losses reserve fund.

(a) The tax losses reserve fund shall be used exclusively as hereinafter provided to cover losses which may occur in the amount of tax liens as a result of special sales of tax-deeded property. Except as provided in subdivision (b) of this section, whenever in any year the amount of the tax losses reserve fund shall have reached an amount equivalent to 5 percent of the total of all taxes and assessments levied on the secured roll for that year the amounts hereinafter authorized to be credited to that fund shall, for the remainder of that year, be credited to the county general fund.

(b) If any county for which the rate of secured tax delinquency has been 3 percent or less for the preceding three consecutive fiscal years, whenever in any year the amount of the tax losses reserve fund shall have reached the amount equivalent to 3 percent of the total

of all taxes and assessments levied on the secured rolls for that year the amounts hereinafter authorized to be credited to that fund shall, for the remainder of that year, be credited to the county general fund.

(c) If any county utilizing the procedure set forth in subdivision (b) of this section, incurs a rate of secured tax delinquency for one fiscal year that exceeds 3 percent of the total of all taxes and assessments levied on the secured rolls, the provisions of subdivision (a) of this section shall apply, including the 5-percent limit, until such time as the rate of secured tax delinquency has been 3 percent or less for three consecutive years at which time the provisions of subdivision (b) of this section shall again apply.

(d) The auditor and treasurer shall keep apportioned tax resources accounts in such a manner that the balance of amounts apportioned to funds on an accrual basis shall be known by both officers. In addition, the auditor shall keep secured taxes receivable accounts in such a manner as to establish accountability for the amounts receivable on the secured tax rolls. Secured tax rolls as used in this chapter include delinquent rolls prescribed by Section 2627.

SEC. 30. Section 4712 of the Revenue and Taxation Code is amended to read:

4712. In any county electing to follow the procedure authorized by this chapter the amount remaining after determination of the claims of other taxing agencies out of any amount received for the rental of tax-deeded land under Part 6 (commencing with Section 3351), shall be prorated on the basis of tax levies between the years before the procedure was put into effect and the years during which it has been in effect. The proration for the former years shall be distributed as provided in the aforementioned Part 6. The proration for the latter years shall be credited to the tax losses reserve fund.

SEC. 31. Section 4876 of the Revenue and Taxation Code is amended to read:

4876. When it can be ascertained from any roll or from any papers of the board what was intended or what should have been assessed, defects in description or form or clerical errors of the board in assessing state-assessed property or other errors of the board not involving the exercise of judgment as to value which result in the entry on the roll of assessed values other than those intended by the board may be corrected by the board under this article at any time within four years after the assessment was made or within the period for which a waiver is given pursuant to Section 868.

SEC. 32. Section 4876.5 of the Revenue and Taxation Code is amended to read:

4876.5. When it can be ascertained by the board from an audit of an assessee's books of account or other papers that the property of the assessee was incorrectly valued or misclassified for any cause, then to the extent that this error caused the board to assess taxable tangible property which should not have been assessed or to assess it at a higher valuation than the board would have entered on the roll

if the error had not occurred, the roll may be corrected under this article at any time within four years after the assessment was made or within the period for which a waiver is given pursuant to Section 868.

SEC. 33. Section 4991 of the Revenue and Taxation Code is amended to read:

4991. If the tax collector sells property to the state for taxes which were a lien on the property for any year, and:

(a) The taxes for that year had been paid prior to the date of sale, or

(b) The taxes have been legally canceled, or

(c) The taxes are valid but an error subsequent to the levy of the taxes renders void the sale to the state; the tax collector, with the approval of the auditor, shall cancel the sale. The fact and date of the cancellation shall be entered on the abstract or electronic data processing records.

If the tax collector is not operating under the provisions of Article 2 (commencing with Section 3446) of Chapter 2 of Part 6, the tax collector shall transmit a copy of the cancellation to the Controller in the form prescribed by the Controller.

SEC. 34. Section 5145 of the Revenue and Taxation Code is amended to read:

5145. (a) Notwithstanding the fact that all taxes on property have not been paid in full, the owner of that property may bring an action under Section 5140 at any time within six months after the rejection of a claim for the first installment under an installment plan of redemption pursuant to Article 2 (commencing with Section 4216) of Chapter 3 of Part 7, if the following requirements are satisfied:

(1) The first installment payment is made within six months of the delinquency of the taxes being paid by installments.

(2) If the balance of the unpaid tax liability remaining after the first installment payment has been made, plus penalties and interest thereon to the date of filing the actions, exceeds 66⅔ percent of the full value of the property on which the taxes are a lien, as of the last equalized assessment roll, the taxpayer shall post a bond with the county tax collector in a sum equal to that excess or, in the alternative, pledge other property with the county tax collector in that amount as security. The requirement for a bond or additional security specified in this paragraph shall terminate when the balance of unpaid tax liability remaining after a subsequent installment payment, plus penalties and interest thereon to the date of such subsequent installment payment, no longer exceeds 66⅔ percent of the full value of the property on which the taxes are a lien, as of the last equalized assessment roll. However, a new bond shall be posted or property pledged if, during the pendency of the action, the balance of unpaid tax liability, plus penalties and interest thereon, again exceeds 66⅔ percent of the full value.

(b) The right to maintain an action under this section shall

terminate if there is a default of any obligation by the owner in the installment plan of redemption on the property.

(c) If the owner does not recover the amount of taxes in dispute in an action brought under this section, he or she shall pay additional interest to the county or city equal to the difference between the interest he or she has paid under Article 2 (commencing with Section 4216) of Chapter 3 of Part 7 and the amount of interest the county or city would have earned on the funds in the impound account on the entire amount of tax determined by the court to be due, if the amount had been paid in equal installments on the tax delinquency dates.

SEC. 35. Section 5783 of the Revenue and Taxation Code is amended to read:

5783. The auditor of the county in which a report is filed shall transfer any taxes paid pursuant to this part belonging to another county as shown on the report, together with a copy of the report, in order that the auditor of any county receiving transferred funds can allocate them in the manner provided for in Section 5790.

SEC. 36. Section 5814 of the Revenue and Taxation Code is repealed.

SEC. 37. Section 5814 is added to the Revenue and Taxation Code, to read:

5814. For purposes of this part, "change in ownership" and "purchase" shall have the same meanings as provided in Sections 60 to 68, inclusive, to the extent applicable. The operative dates of those sections shall be controlling in the determination of whether a change in ownership or purchase of a mobilehome has occurred.

SEC. 38. Section 5815 of the Revenue and Taxation Code is repealed.

SEC. 39. Section 5816 of the Revenue and Taxation Code is repealed.

SEC. 40. Section 5817 of the Revenue and Taxation Code is repealed.

SEC. 41. Section 5818 of the Revenue and Taxation Code is repealed.

SEC. 42. Section 5819 of the Revenue and Taxation Code is repealed.

SEC. 43. Section 5820 of the Revenue and Taxation Code is repealed.

SEC. 44. Section 10759.5 of the Revenue and Taxation Code is amended to read:

10759.5. (a) Notwithstanding the provisions of Section 10758, on or after July 1, 1980, any mobilehome, with respect to which the license fee required to be paid by this part has been delinquent for a period of 120 days or more, shall no longer be subject to the provisions of this part. Instead, that mobilehome shall be subject to the provisions of law governing local property taxation. However, until the time the mobilehome is actually enrolled on the local property tax roll pursuant to Section 5812, any fees which would

otherwise be due under this part shall be deemed delinquent and subject to the collection procedures provided in subdivision (c). The mobilehome shall not become subject to local property taxes until it is enrolled.

Except as provided in Article 4 (commencing with Section 10910) of Chapter 3, if a mobilehome consists of two or more transportable sections which have been assembled as a single unit or were manufactured or fabricated for later assembly as a single unit, and each section has been separately registered under the Vehicle Code, and the license fee for any section of the mobilehome has been delinquent for 120 days or more, all sections of the mobilehome shall no longer be subject to the provisions of this part and shall become subject to the provisions of law governing local property taxation.

(b) In determining whether the license fee has been delinquent for 120 days or more, the 120-day period shall not include any days during which the mobilehome is the subject of any probate proceedings in this state. The 120-day period shall commence upon sale or distribution of the mobilehome by the executor or administrator. If the license fee was delinquent for 120 days or more prior to the date of death, the mobilehome shall be subject to property taxation.

(c) With regard to any mobilehome subject to local property taxation pursuant to the provisions of subdivision (a), any delinquent fees and penalties due under this part and under Article 2 (commencing with Section 9250) of Chapter 6 of Division 3 of the Vehicle Code as reported by the Department of Motor Vehicles or the Department of Housing and Community Development shall be added to the applicable property tax bill. The delinquent fees and penalties may be added to the secured roll and may be collected and distributed in the same manner as property taxes, or, in the alternative, may be added to the unsecured roll, collected like and distributed like all other taxes on that roll. If the amount of delinquent fees and penalties does not appear in the records of the Department of Motor Vehicles or the Department of Housing and Community Development, the Department of Housing and Community Development shall determine from available information, if any, what the delinquent fees and penalties would have been had the mobilehome been registered. If the amount of delinquent fees and penalties cannot be determined by the Department of Housing and Community Development, there shall be added an amount representing delinquent fees and penalties which shall be one hundred dollars ($100) or 1 percent of the current value of the mobilehome for each year or part thereof the mobilehome has been in this state without a current registration, not to exceed four years, whichever is more.

Whenever there is a transfer of registration, the liability for delinquent fees and penalties is that of the seller and not the buyer of the mobilehome.

(d) The State Board of Equalization shall adopt and amend as

necessary rules and regulations to carry out as well as enforce the provisions of this section.

(e) For purposes of this section, "mobilehome" is defined in Section 396 of the Vehicle Code.

(f) If any mobilehome owner disputes the amount of delinquent fees and penalties reported by the Department of Housing and Community Development, the owner shall pay the amount reported to the county tax collector. If the Department of Housing and Community Development determines that a refund is due, it shall notify the auditor who shall refund the overpayment or erroneous payment of fees and penalties to the owner.

SEC. 44.5. Section 10760 of the Revenue and Taxation Code is amended to read:

10760. (a) Notwithstanding any other provision of law, any owner of a mobilehome for which the license fee required to be paid became delinquent between July 1, 1980, and March 1, 1982, and who paid the delinquent fee due or furnishes proof or verification by a county tax collector that payment of property taxes on the mobilehome is current as of the date of filing a waiver of delinquency with the Department of Housing and Community Development, shall not be subject to penalty or local property taxation, if a request for waiver of the delinquency postmarked between September 24, 1982, and January 1, 1984, is filed with the department.

(b) Notwithstanding any other provision of law, payment of the first installment on property taxes due and payable in fiscal year 1982–83 by delinquent mobilehome owners filing a waiver of delinquency under this section shall be deemed full payment of that 1982–83 property tax liability, if the waiver of delinquency is filed and postmarked no later than April 9, 1983.

(c) The department shall establish a vehicle license fee renewal date for mobilehome owners paying property taxes on the mobilehome for the 1982–83 calendar year, who file a waiver of delinquency and are reinstated pursuant to this section not sooner than 180 days after the delinquency date on which property taxes for 1982–83 are due and payable, as follows:

(1) For those mobilehome owners filing a waiver of delinquency no later than April 9, 1983, pursuant to subdivision (b), December 10th.

(2) For those mobilehome owners filing a waiver of delinquency pursuant to subdivision (a) between April 10, 1983, and January 1, 1984, April 10, 1983.

(d) Forms for filing the waiver of delinquency shall be provided by the Department of Housing and Community Development through its offices and county assessors and shall include provisions for the county tax collector to verify any payment of local property taxes on the mobilehome by the mobilehome owner.

SEC. 45. Section 38107 of the Revenue and Taxation Code is repealed.

SEC. 46. Section 38402 of the Revenue and Taxation Code is

amended to read:

38402. On or before the last day of the month following each calendar quarter, a return for the preceding quarterly period shall be filed with the board in such form as the board may prescribe. The return shall include the following information with respect to timber harvested by the timber owner in the preceding calendar quarter: the volume harvested and the number of Christmas trees cut; the quarter the timber was harvested and the quarter the Christmas trees were cut; the date or dates the timber was scaled; the species; and any other information deemed necessary by the board for the administration of this part. At the assessor's request, the board shall provide copies of these returns to the assessor of the county from which the timber was harvested.

SEC. 47. Section 38903 of the Revenue and Taxation Code is amended to read:

38903. (a) All taxes, interest, penalties and other amounts paid or collected pursuant to this part on or before July 31, 1983, except taxes paid or collected pursuant to Section 38301, shall be deposited in the Timber Tax Fund, which is hereby created.

(b) On and after August 1, 1983, all taxes, interest, penalties, and other amounts paid or collected pursuant to this part shall be deposited in the Timber Tax Fund.

SEC. 48. For purposes of Sections 36 to 43, inclusive, of this act, it is the intent of the Legislature that the general provisions governing the change in ownership and purchase of real property be equally applicable to mobilehomes subject to property taxation. It is also the intent of the Legislature that all operative dates of the provisions of Sections 60 to 68, inclusive, of the Revenue and Taxation Code be equally applicable to changes in ownership and purchases of those mobilehomes.

SEC. 49. 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. 50. This act is an urgency statute necessary for the immediate preservation of 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 extend a one-time waiver for delinquent mobilehome registration fees payable because of a lack of notice of the change in delinquent penalties and confusion resulting from changes in the administration of mobilehome registration fees, at the earliest possible time, it is necessary that this act take effect immediately.

CHAPTER 1282

An act to amend Section 8263 of, to add Section 8263.5 to, and to add and repeal Article 19 (commencing with Section 8420) to Chapter 2 of Part 6 of, the Education Code, relating to child care and development.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 8263 of the Education Code is amended to read:

8263. (a) The Superintendent of Public Instruction shall adopt such rules and regulations on eligibility, enrollment, and priority of services as needed to implement this chapter. In order to be eligible for federal and state subsidized child development services, families shall meet at least one requirement in each of the following areas:

(1) A family shall be (A) a current aid recipient, (B) income eligible, or (C) one whose children are recipients of protective services, or whose children have been identified as being abused, neglected, or exploited, or at risk of being abused, neglected, or exploited; and

(2) A family shall need the child care service because the child is identified by a legal, medical, or social service agency as being (A) a recipient of protective services, (B) being neglected, abused, or exploited, or at risk of neglect, abuse, or exploitation, or (C) having a medical or psychiatric special need which cannot be met without provision of child day care, or the parents are (i) engaged in vocational training leading directly to a recognized trade, paraprofession, or profession, (ii) employed or seeking employment, or (iii) incapacitated, including a medical or psychiatric special need which cannot be met without provision of child day care.

(b) Priority for state and federally subsidized child development services shall be as follows:

(1) First priority shall be given to recipients of child protective services for children who are neglected or abused, or at risk of being neglected or abused, upon written referral from a legal, medical, or social service agency. When an agency is unable to enroll a child in the first priority category, the agency shall refer the family to local resource and referral services to locate services for the child.

(2) Second priority shall be equally given to eligible families, regardless of the number of parents in the home, who are income eligible. Within this priority, families with the lowest gross monthly income shall be admitted first. For purposes of determining order of admission, the grants of public assistance recipients shall be counted as income.

(3) The superintendent shall set criteria for and may grant

specific waivers of the priorities established in this subdivision for agencies which wish to serve specific populations, such as handicapped children or children of prisoners. These new waivers shall not include proposals to avoid appropriate fee schedules or admit ineligible families, but may include proposals to accept members of special populations in other than strict income order, as long as appropriate fees are paid.

(c) A physical examination and evaluation, including age-appropriate immunization, shall be required prior to, or within six weeks of, enrollment. No standard, rule, or regulation shall require medical examination or immunization for admission to a child care and development program of a child whose parent or guardian files a letter with the governing board of the child care and development program stating that such medical examination or immunization is contrary to his or her religious beliefs, or provide for the exclusion of a child from the program because of a parent or guardian having filed such letter. However, whenever there is good cause to believe that a child is suffering from a recognized contagious or infectious disease, the child shall be temporarily excluded from the program until the governing board of the child care and development program is satisfied that any contagious or infectious disease does not exist.

(d) Regulations formulated and promulgated pursuant to this section shall include the recommendations of the State Department of Health Services relative to health care screening and the provision of health care services. The Superintendent of Public Instruction shall seek the advice and assistance of these health authorities in situations where service under this chapter includes or requires care of ill or disabled children.

(e) The Superintendent of Public Instruction shall establish a fee schedule for families utilizing child care and development services pursuant to this chapter.

(f) The superintendent shall establish regulations for the collection of payments from families receiving benefits under the Aid to Families with Dependent Children program. The regulations shall require payment by those families of a benefit adjustment authorized for child care services, but not to exceed the actual cost of child care and development services provided. The regulations shall be designed to ensure that charging the payment does not result in a significant loss in spendable income to the family. The assessment of this benefit shall occur regardless of the applicable fee based on the fee schedule.

The child care and development agency collecting the fee shall be entitled to keep 10 percent of the fee to defer the cost of collection.

Upon receiving an appropriation therefor, the State Department of Education shall utilize the balance of these funds for local assistance for the following purposes:

(1) To reimburse the child care and development agency, which collected the fee caused by the operation of this section, for

providing additional services to eligible families.

(2) The balance shall be transferred to the local child care and employment fund in accordance with the formula established pursuant to Section 15053 of the Unemployment Insurance Code.

(g) The superintendent shall establish guidelines for the collection of employer sponsored child care benefit payments from any parent whose child receives subsidized child care and development services. These guidelines shall provide for the collection of the full amount of the benefit payment, but not to exceed the actual cost of child care and development services provided, notwithstanding the applicable fee based on the fee schedule.

(h) The Superintendent of Public Instruction shall establish guidelines according to which the director or a duly authorized representative of the child care and development program will certify children as eligible for state reimbursement pursuant to this section.

(i) No public funds shall be paid directly or indirectly to any agency which does not pay at least the minimum wage to each of its employees.

SEC. 2. Section 8263.5 is added to the Education Code, to read:

8263.5. (a) On or before April 1 of each year, the State Department of Education shall report the total amount of fees collected pursuant to subdivision (f) of Section 8263 to the Department of Finance.

(b) The Department of Finance shall transfer an amount equal to the amount reported pursuant to subdivision (a) from the amount appropriated from the General Fund to the Department of Education for child care according to the following priorities:

(1) First, to reimburse the State Department of Social Services for any increase in Aid to Families with Dependent Children costs caused by the operation of Section 8263.

(2) The net balance to the General Fund to offset the amount appropriated therefrom for child care.

SEC. 3. Article 19 (commencing with Section 8420) is added to Chapter 2 of Part 6 of the Education Code, to read:

Article 19. Child Care and Development Services for Participants in Job Training Programs

8420. This article shall be known as the Child Care and Employment Act.

8421. Within each service delivery area designated by the State Job Training Council, pursuant to Chapter 4.5 (commencing with Section 15035) of Division 8 of the Unemployment Insurance Code, there shall be established a child care fund known in each local service delivery area as the "Child care and employment fund."

8422. The purpose of the child care and employment fund shall be to provide child care services for the children of participants in the service delivery area's job training and placement programs established pursuant to the federal Job Training Partnership Act (P.L. 97-300).

8423. (a) It is the intent of the Legislature that any program expansion which results from the enactment of this article shall be continued only to the extent that funds are made available from the sources identified in subdivision (b).

(b) Funding for each local service delivery area's child care and employment fund shall include, but not be limited to, the following:

(1) Social services funds appropriated pursuant to Provision 4 of Item 5180-151-866 of the Budget Act of 1983. These funds shall be available to the extent that they are (1) designated by the Legislature for child care, and (2) distributed by the State Department of Education to each local child care and employment fund using the formula established pursuant to Section 15053 of the Unemployment Insurance Code.

(2) Funds designated for child care by the private industry council, established pursuant to Section 15030 of the Unemployment Insurance Code, but not less than 75 percent of the cost of care for every recipient of job training or placement services funded using the area's fedral Job Training Partnership Act (P.L. 97-300) appropriation, whose job readiness assessment includes the need for child care. The private industry council may refer, for information, all participants who need or use child care to the agency administering the child care and employment fund. The private industry council shall provide funds only for those participants whose child care needs are not met by other community resources and whose child care needs can be met within the council's annual budget. The private industry council and the child care and employment fund agency shall negotiate the local contract for child care. In negotiating the terms of the contract, the private industry council and the child care and employment fund agency shall consider relevant factors which shall include, but not be limited to, the number of parents to be served and the cost of care available in the local child care market.

(3) General funds replaced by payments to recipients of Aid to Families with Dependent Children for child care, up to the maximum dependent care disregard allowed for Aid to Families with Dependent Children pursuant to the disregard mechanism of Part A (commencing with Section 601) of Subchapter IV of Title 42 of the United States Code.

8424. (a) The Superintendent of Public Instruction shall, by March 1, 1984, identify one child development agency within each service delivery area to administer the child care and employment fund. The identification process shall include consultation with and approval of the private industry council and local elected officials.

(b) The superintendent shall identify a child development agency within the service delivery area operating a program at the time of the identification that meets the criteria of subdivisions (a) to (i), inclusive, of Section 8425. Selection of the agency shall take into account past performance at delivering child care arrangements for parents, fiscal accountability, and ability to coordinate services with the private industry council.

(c) If the superintendent determines that no child development agency within the service delivery area meets the criteria of Section 8425, then other agencies operating within the service delivery area may apply.

(d) If the superintendent determines that more than one child development agency within the service delivery area meet the criteria of Section 8425, the superintendent may identify a consortium of these agencies to administer the child care and development fund.

8425. The superintendent shall identify pursuant to Section 8424 only agencies which demonstrate the ability to do the following:

(a) Coordinate community resources.

(b) Assist parents to locate care.

(c) Allow and promote parent choice by making payment arrangements for care in any centers or family day care homes of the parents' choosing, which conform to applicable law, or within a child's own home.

(d) Subcontract with existing public and private child care and development programs for provision of service.

(e) Enhance the quality of child care by providing support services to children, families, and child care providers.

(f) Assist new child care to develop, where needed.

(g) Provide for the continuity of service through the parent's post-training transition period.

(h) Provide services to meet the child care needs of all children in the family ages birth through 14 years of age.

(i) Provide services to meet the child care needs of parents whose training program demands flexible hours of care including evenings, weekends, and split shifts.

8427. Administrative expenditures by the local administering child care agency shall not exceed 10 percent of the total cost and support services shall not exceed 15 percent of the total cost. Support services shall include those items listed in subdivisions (a), (b), (e), and (f) of Section 8425. All services provided shall conform to state licensing requirements.

The child care agency shall negotiate service levels with each referral source and shall accept eligible referrals from each referral source. The agency shall provide each parent with the following services:

(a) Education and counseling services on how to choose child care.

(b) Education and counseling services on payment through a vendor/voucher system for child care selected in the community by the parent.

(c) Child care services with a provider of the parent's choosing. Payment shall be equal to the fee charged to full-cost families in the program.

(d) Transition services for continuation of child care arrangements in the post-training period.

8428. Services provided under this article may be continued to parents in transition from training or employment to unsubsidized

employment for a period of 90 days after the conclusion of the training period. This transition period shall be a priority for all enrollees. Transition services may be extended for a second 90 days if the needs of all trainees are being met and funds are available within the child care and employment fund.

8429. The advisory committee established pursuant to Section 8286 shall also perform the following functions with regard to this article:

(a) Review the establishment of all child care and employment funds, and gather public information as to the appropriateness and effectiveness of their implementation.

(b) Serve in an advisory capacity to the Superintendent of Public Instruction and the Governor for program policy decisions.

(c) Assist the State Department of Education in developing and reviewing guidelines for the administration of all child care and employment funds.

(d) Make recommendations to the Governor, the State Department of Education, the Legislature, and the State Job Training Council with regard to program development and expansion of child care and employment funds.

8429.5. This article shall remain in effect only until December 31, 1986, and as of that date is repealed, unless a later enacted statute, which is chaptered before December 31, 1986, deletes or extends that date.

SEC. 3. No appropriation is made, except as provided in Section 4 of this act, 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. 4. This act constitutes legislation which provides for the expenditure of funds for the Job Training Partnership Act for the purposes of the control language in Provision 4 of Item 5180-151-866 of the Budget Act of 1983.

Notwithstanding any other provision of law, the sum of six million dollars ($6,000,000) appropriated for child care services by Schedule (c) (2) of Item 5180-151-866 of the Budget Act of 1983 shall be used by the State Department of Social Services to contract with the State Department of Education, which shall allocate this sum local child care and employment funds for the purposes for which those funds have been established pursuant to this act.

CHAPTER 1283

An act to add Section 1597.621 to the Health and Safety Code, relating to family day care facilities.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1 Section 1597.621 is added to the Health and Safety Code, immediately following Section 1596.62, to read:

1597.621. Family day care homes which, on December 31, 1983, have a valid unexpired registration to operate as a family day care home for children pursuant to Section 1597.62 in one of the pilot counties shall be deemed to be issued a family day care license effective January 1, 1984. Licensure pursuant to this section shall not require a visit pursuant to the requirement set forth in subdivision (a) of Section 1597.55. However, all other requirements of licensing shall continue to be met. Complaint and revocation procedures may be enforced. The State Department of Social Services shall establish a schedule of expiration dates for licenses issued pursuant to this section. Licenses issued pursuant to this section shall be eligible for renewal under the license renewal procedures contained in Section 1597.58. All requirements of family day care licensing shall be met at the time of renewal.

CHAPTER 1284

An act to amend Sections 139 and 4600 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 139 of the Labor Code, as amended by Section 4 of Chapter 1150 of the Statutes of 1981, is amended to read:

139. The administrative director shall appoint a Medical and Chiropractic Advisory Committee composed of eight members, seven of whom shall be physicians and surgeons certificated to practice medicine in this state. One member of the Medical and Chiropractic Advisory Committee shall be a chiropractor licensed to practice chiropractic in this state. The seven physician and surgeon members of the advisory committee shall represent medical specialties concerned with the treatment of industrial injury and disease. The physician and surgeon members shall be appointed after consultation with statewide and local associations of the medical profession for two-year staggered terms. The chiropractic member shall be appointed after consultation with statewide and local associations of the chiropractic profession for a term of two years. Vacancies shall be filled by appointment for the unexpired terms. Members shall receive actual necessary traveling expenses and a per diem of one hundred dollars ($100) for each day spent in meetings of the Medical and Chiropractic Advisory Committee. The Medical and Chiropractic Advisory Committee members shall counsel and assist the medical director and shall perform such other duties as the administrative director may direct.

The members of the Medical and Chiropractic Advisory Committee shall, within the scope of each member's professional training, do all the following:

(a) Maintain liaison with the medical and chiropractic professions.

(b) Assist in recruiting doctors for the medical bureau.

(c) Advise the medical director as to selection and removal of independent medical or chiropractic examiners.

(d) Assist, within the scope of each member's professional training, in developing guidelines for determination of disputed questions of clinical fact.

(e) Suggest standards for improving care furnished injured employees.

(f) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians and surgeons and chiropractors of these developments.

(g) Advise the division regarding reasonable levels of fees for physicians and surgeons and chiropractors performing services under this code.

The administrative director shall appoint for renewable terms of two years, independent expert medical examiners in each of the respective specialties as may be required. The administrative director shall appoint for renewable terms of two years, independent expert chiropractic examiners.

Assignment of cases to independent examiners shall be made at the request of the administrative director, the secretary of the appeals board, or a referee by the medical director or his assistant in each office where a unit of the medical bureau is maintained or by the referee in charge in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or expert chiropractic examiners shall be followed.

The examiners shall conduct examinations and report their findings and opinions in accordance with guidelines developed for that purpose by the medical director of the division.

Payment for the examination shall be made by the Division of Industrial Accidents from funds appropriated for that purpose or for the support of the division's medical bureau, or in accordance with Section 5703.5.

This section shall remain in effect only until July 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1984, deletes or extends such date.

SEC. 2. Section 139 of the Labor Code, as added by Section 5 of Chapter 1150 of the Statutes of 1981, is amended to read:

139. The administrative director shall appoint a Medical and Chiropractic Advisory Committee composed of eight members, seven of whom shall be physicians and surgeons certificated to practice medicine in this state. One member of the Medical and Chiropractic Advisory Committee shall be a chiropractor licensed to practice chiropractic in this state. The seven physician and surgeon members of the advisory committee shall represent medical specialties concerned with the treatment of industrial injury and disease. The physician and surgeon members shall be appointed after

consultation with statewide and local associations of the medical profession for two-year staggered terms. The chiropractic member shall be appointed after consultation with statewide and local associations of the chiropractic profession for a term of two years. Vacancies shall be filled by appointment for the unexpired terms. Members shall receive actual necessary traveling expenses and a per diem of one hundred dollars ($100) for each day spent in meetings of the Medical and Chiropractic Advisory Committee. The Medical and Chiropractic Advisory Committee members shall counsel and assist the medical director and shall perform such other duties as the administrative director may direct.

The members of the Medical and Chiropractic Advisory Committee shall, within the scope of each member's professional training, do all the following:

(a) Maintain liaison with the medical and chiropractic professions.

(b) Assist in recruiting doctors for the medical bureau.

(c) Advise the medical director as to selection and removal of independent medical or chiropractic examiners.

(d) Assist, within the scope of each member's professional training, in developing guidelines for determination of disputed questions of clinical fact.

(e) Suggest standards for improving care furnished injured employees.

(f) Undertake continuing studies of developments in the field of rehabilitation, and continuously inform treating physicians and surgeons and chiropractors of these developments.

(g) Advise the division regarding reasonable levels of fees for physicians and surgeons and chiropractors performing services under this code.

The administrative director shall appoint for renewable terms of two years, independent expert medical examiners in each of the respective specialties as may be required. The administrative director shall appoint for renewable terms of two years, independent expert chiropractic examiners.

Assignment of cases to independent examiners shall be made at the request of the administrative director, the secretary of the appeals board, or a referee by the medical director or his assistant in each office where a unit of the medical bureau is maintained or by the referee in charge in other offices of the division. Insofar as possible, a rotation method of assignment of independent medical or expert chiropractic examiners shall be followed.

The examiners shall conduct examinations and report their findings and opinions in accordance with guidelines developed for that purpose by the medical director of the division.

Payment for the examination shall be made by the Division of Industrial Accidents from funds appropriated for that purpose or for the support of the division's medical bureau, or in accordance with Section 5703.5.

The level of fees for such services shall be set periodically by the administrative director at a level which will assure the availability of outstanding medical and chiropractic experts to serve as independent examiners.

This section shall become operative on July 1, 1984.

SEC. 3. Section 4600 of the Labor Code, as amended by Section 6 of Chapter 1150 of the Statutes of 1981, is amended to read:

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area. However, if an employee has notified his or her employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by that physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history.

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, medical testimony, and, as needed, interpreter's fees, to prove a contested claim. The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred.

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents ($0.21) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination.

This section shall remain in effect only until July 1, 1984, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1984, deletes or extends such date.

SEC. 4. Section 4600 of the Labor Code, as added by Section 7 of Chapter 1150 of the Statutes of 1981, is amended to read:

4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is

reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area. However, if an employee has notified his employer in writing prior to the date of injury that he or she has a personal physician, the employee shall have the right to be treated by such physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history.

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, medical testimony, and, as needed, interpreter's fees, to prove a contested claim. The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred. Expenses of medical testimony shall be presumed reasonable if in conformity with the fee schedule charges provided for impartial medical experts appointed by the administrative director.

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents ($0.21) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination.

This section shall become operative on July 1, 1984.

CHAPTER 1285

An act to amend Sections 437.10 and 1254 of, to add Section 438.51 to, the Health and Safety Code, and to add Section 14005.13 to the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. Section 437.10 of the Health and Safety Code is amended to read:

437.10. Except as otherwise exempted by Section 437.11 or this section, projects requiring a certificate of need issued by the Office of Statewide Health Planning and Development are the following:

(a) Construction of a new health facility, relocation of a health facility or speciality clinic on a site which is not the same site or adjacent thereto, the increase of bed capacity in an existing health facility, the conversion of an entire existing health facility from one license category to another, or the conversion of a health facility's existing beds from any bed classification set forth in Section 1250.1 to skilled nursing beds, psychiatric beds, or intermediate care beds, and the conversion of skilled nursing beds, psychiatric beds, or intermediate care beds to any other bed classification set forth in Section 1250.1, except for skilled nursing beds or intermediate care beds licensed as of March 1, 1983, as part of a general acute care hospital. The conversion may not exceed during any three-year period 5 percent of the existing beds of the bed classification to which the conversion is made.

A health facility may use beds in one bed classification which, pursuant to the facility's license, have been designated in another bed classification, if all of these bed classification changes do not at any time exceed 5 percent of the total number of the facility's beds as set forth by the facility's license and if use meets the requirements of Chapter 2 (commencing with Section 1250) of Division 2. In addition, a facility may use an additional 5 percent of its beds in this manner if the director finds that seasonal fluctuations justify it.

For purposes of this subdivision, "adjacent," means real property within a 400-yard radius of the site on which a health facility or specialty clinic currently exists.

(b) Establishment of a new specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, a project by a health facility for expanded outpatient surgical capacity, the conversion of an existing primary care clinic to a specialty clinic, or the conversion of an existing specialty clinic to a different category of specialty-clinic licensure. It shall not constitute a project and no certificate of need shall be required for the establishment of a primary care clinic, as defined in subdivision (a) of Section 1204, the conversion of an existing specialty clinic to a primary care clinic, or the conversion of an existing primary care clinic to a different category of primary-care-clinic licensure. Any capital expenditure involved in the establishment of a primary care clinic shall also not constitute a project, except as provided in subdivision (d).

(c) The establishment of a new special service delineated in subdivision (a), (b), (c), (e), (f), (g), or (h) of Section 1255, or the establishment establishment by a specialty clinic, as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, of a new

special service identified by or pursuant to Section 1203.

(d) The initial purchase or lease by a clinic subject to licensure under Chapter 1 (commencing with Section 1200) of Division 2, of diagnostic or therapeutic equipment with a value in excess of one million dollars ($1,000,000) in a single fiscal year, or for which the cumulative cost exceeds such amount in more than one fiscal year. For purposes of this subdivision, the purchase or lease of one or more articles of functionally related diagnostic or therapeutic equipment, as determined by the office, shall be considered together.

(e) Any project requiring a capital expenditure for a specialty clinic as defined in paragraphs (1) and (3) of subdivision (b) of Section 1204, or for the services, equipment or modernization of a specialty clinic in excess of one million dollars ($1,000,000) in the current fiscal year or cumulation to an expenditure of one million dollars ($1,000,000) in the same fiscal year or subsequent fiscal years for a single project.

The threshold exemptions from certificate-of-need requirements provided for in this subdivision shall not apply to projects for expanded outpatient surgical capacity.

For the purposes of this subdivision, a "capital expenditure" shall mean any of the following:

(1) An expenditure, including an expenditure for a construction project undertaken by the specialty clinic as its own contractor, which under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance and which exceeds one million dollars ($1,000,000). The cost of studies, surveys, legal fees, land, offsite improvements, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of the physical plant and equipment with respect to which the expenditure is made shall be included in determining whether the cost exceeds one million dollars ($1,000,000). Where the estimated cost of a proposed project, including cost escalation factors appropriate to the area in which the project is located, is, within 60 days of the date on which the obligation for the expenditure is incurred, certified by a licensed architect or engineer to be one million dollars ($1,000,000) or less, that expenditure shall be deemed not to exceed one million dollars ($1,000,000) regardless of the actual cost of such project. However, in any such case where the actual cost of the project exceeds one million dollars ($1,000,000) the specialty clinic on whose behalf such expenditure is made shall provide written notification of such cost to the state department not more than 30 days after the date on which such expenditure is incurred. The notification shall include a copy of the certified estimate.

(2) The acquisition, under lease or comparable arrangement, or through donation, of equipment for a specialty clinic, the expenditure for which would have been considered a capital expenditure if the person had acquired it by purchase. For the purposes of this paragraph, "donation" shall not include a bequest.

(3) Any change in a proposed capital expenditure which itself meets the criteria set forth in this subdivision.

A "capital expenditure" shall include the total cost of the proposed project as certified by a licensed architect or engineer based on preliminary plans or specifications and concurred in by the state department. For the purposes of this subdivision, "project" shall not include the purchase of real property for future use or the transfer of ownership, in whole or part, of an existing specialty clinic or the acquisition of all or substantially all of the assets or stock thereof, or the construction, modernization, purchase, lease, or other acquisition of parking lots or parking structures, telephone systems, and nonclinical data-processing systems.

For the purposes of this subdivision, "modernization" means the alteration, expansion, repair, remodeling, replacement, or renovation of existing buildings, including initial equipment thereof, and the replacement of equipment of existing buildings.

The office shall annually adjust the dollar thresholds set forth in subdivisions (d) and (e) of this section to reflect changes in the cost of living, as determined by the Department of Finance, using 1981 as the base year. Notwithstanding the amount of such dollar thresholds, in the event Congress increases or repeals the amount or amounts of such thresholds, the dollar thresholds set forth in subdivisions (d) and (e) of this section shall be the highest amount or amounts permitted by Public Law 93-641, as amended, or one million dollars ($1,000,000), whichever is less, on the date such congressional action is effective.

SEC. 2. Section 438.51 is added to the Health and Safety Code, to read:

438.51. (a) Notwithstanding the provisions of subdivisions (b), (c), (d), (e), or (f) of Section 438.5 to the contrary, if the office orders a hearing on an application, the applicant may request an informal hearing of the matter, described in this section, in lieu of, and in the alternative to, the formal procedures described in subdivisions (b), (c), (d), (e), and (f) of Section 438.5.

(b) If an applicant requests an informal hearing, the office shall proceed as follows:

(1) Within five calendar days after receipt of the request for an informal public hearing, the office shall order the informal public hearing by the service of a copy of the order on the applicant. The order shall include the staff report and recommendations prepared by staff of the office. Except as otherwise agreed by the applicant and the office, the informal public hearing shall commence within 20 days of the date of the order. Upon the scheduling of the hearing, the office shall promptly serve notice of the date, location, and time of the informal public hearing upon the applicant. The office shall also publish a notice of the date, location, and time of the informal public hearing in at least one newspaper of general circulation in the health service area served by the applicant. Such notice shall also include the name and address of the applicant, the nature of the proposed

project, and other information, deemed relevant by the office.

(2) The informal public hearing shall not be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. The informal public hearing shall be conducted by an employee of the office designated by the office director. The person conducting the informal public hearing may exercise all powers relating to the conduct of the hearing, including the power to reasonably limit the length of oral presentations by any person who has been allowed to make a statement.

The informal public hearing shall be conducted as follows:

(A) The applicant shall be given an opportunity to present the merits of the project and to address the issues raised by the staff report and recommendations.

(B) The office staff shall be given an opportunity to present their analysis of the project.

(C) Other interested persons shall be given an opportunity to present written or oral statements.

(D) The person conducting the informal public hearing may question any person making a written or oral statement and may give the applicant and office staff an opportunity to question any person who has made a written or oral statement.

(E) The applicant and staff shall be given an opportunity to make closing statements.

(F) The office shall make a tape recording of the hearing, and copies of the tape shall be made available at cost upon reasonable notice. However, the applicant shall have a right to bring a certified shorthand reporter to be used in place of the tape recording, provided that they provide the office with a copy of the transcript.

(c) The informal public hearing shall conclude within 10 calendar days after commencement of the hearing unless one of the following occurs:

(1) The applicant agrees to extend the time for conclusion of the hearing.

(2) The hearing is ongoing and continuing during consecutive business days, in which case it shall be concluded as soon as reasonably practicable thereafter.

(d) Within 10 days after the conclusion of the informal public hearing, the person conducting the hearing shall render a proposed decision supported by findings of fact, based solely upon the record of the hearing. The proposed decision shall be service upon the applicant and the office staff.

(e) The director shall make a final decision on an application within 10 calendar days after issuance of the propsed decision. The decisions shall either approve the application, approve it with modifications, reject it, or approve it with conditions mutually agreed upon by the applicant and the office. The failure of any applicant to fulfill the conditions under which the certificate of need was granted shall constitute grounds for revocation of such

certificate of need.

(f) Notice of the substance of the office's decisions shall be published in a newspaper of general circulation within the health service area served by the applicant, within 10 calendar days following the decision.

SEC. 3. Section 1254 of the Health and Safety Code is amended to read:

1254. The state department shall inspect and license health facilities. The state department shall license general acute care hospitals, general acute care/rehabilitation hospitals, acute psychiatric hospitals, skilled nursing facilities, intermediate care facilities, and special hospitals to provide their respective basic services specified in Section 1250. Upon approval, the state department shall issue a separate license for the provision of the basic services enumerated in subdivision (c) or (d) of Section 1250 whenever these basic services are to be provided by an acute care hospital, as defined in subdivision (a), (b), or (f) of that section, where the services enumerated in subdivision (c) or (d) of Section 1250 are to be provided in any separate freestanding facility whether or not the location of the separate freestanding facility is contiguous to the acute care hospital. The same requirement shall apply to any new freestanding facility constructed for the purpose of providing basic services as defined in subdivision (c) or (d) of Section 1250 by any acute care hospital after the effective date of the amendments made to this section during the 1983 portion of the 1983–84 Regular Legislative Session.

Those beds licensed to an acute care hospital which, prior to January 1, 1984, were separate freestanding beds and were not part of the physical structure licensed to provide acute care, and which beds were licensed to provide those services enumerated in subdivision (c) or (d) of Section 1250, are exempt from this requirement. All beds licensed to an acute care hospital and located within the physical structure in which acute care is provided are exempt from this requirement irrespective of the date of original licensure of such beds, or the licensed category of such beds. All beds licensed to an acute care hospital owned and operated by the State of California or any other public agency are exempt from this requirement. All beds licensed to an acute care hospital in a rural area as defined by Chapter 1010, of the Statutes of 1982, are exempt from this requirement except where there is a freestanding skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle. All beds licensed to an acute care hospital which has had a certificate of need approved by a health systems agency on or before July 1, 1983, are exempt from this requirement.

All beds licensed to an acute care hospital are exempt from this requirement if reimbursement from the Medi-Cal program for any bed that is licensed for the provision of services enumerated in

subdivision (c) or (d) and is not otherwise exempt from this requirement does not exceed reimbursement that would be received if the bed were in a separately licensed facility.

Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital or a general acute care/rehabilitation hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

SEC. 4. Section 1254 of the Health and Safety Code is amended to read:

1254. The state department shall inspect and license health facilities. The state department shall license general acute care hospitals, acute psychiatric hospitals, skilled nursing facilities, intermediate care facilities, and special hospitals to provide their respective basic services specified in Section 1250. Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

Upon approval, the state department shall issue a separate license for the provision of the basic services enumerated in subdivision (c) or (d) of Section 1250 whenever these basic services are to be provided by an acute care hospital, as defined in subdivision (a), (b), or (f) of that section, where the services enumerated in subdivision (c) or (d) of Section 1250 are to be provided in any separate freestanding facility whether or not the location of the separate freestanding facility is contiguous to the acute care hospital. The same requirement shall apply to any new freestanding facility constructed for the purpose of providing basic services as defined in subdivision (c) or (d) of Section 1250 by any acute care hospital after the effective date of the amendments made to this section during the 1983 portion of the 1983–84 Regular Legislative Session.

Those beds licensed to an acute care hospital which, prior to January 1, 1984, were separate freestanding beds and were not part of the physical structure licensed to provide acute care, and which beds were licensed to provide those services enumerated in subdivision (c) or (d) of Section 1250, are exempt from this requirement. All beds licensed to an acute care hospital and located within the physical structure in which acute care is provided are exempt from this requirement irrespective of the date of original licensure of such beds, or the licensed category of such beds. All beds licensed to an acute care hospital owned and operated by the State of California or any other public agency are exempt from this requirement. All beds licensed to an acute care hospital in a rural area as defined by Chapter 1010, of the Statutes of 1982, are exempt from this requirement except where there is a freestanding skilled nursing facility or intermediate care facility which has experienced an occupancy rate of 95 percent or less during the past 12 months

within a 25-mile radius or which may be reached within 30 minutes using a motor vehicle. All beds licensed to an acute care hospital which has had a certificate of need approved by a health systems agency on or before July 1, 1983, are exempt from this requirement.

Except as provided in Section 1253, the state department shall inspect and approve a general acute care hospital to provide special services as specified in Section 1255. The state department shall develop and adopt regulations to implement the provisions contained in this section.

SEC. 5. 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).

SEC. 6. Section 14005.13 is added to the Welfare and Institutions Code, to read:

14005.13. Notwithstanding the provisions of Section 14005.12, when an individual residing in a long-term care facility would be ineligible for services under this chapter due to income which exceeds that allowed for the incidental and personal needs of the individual, the individual shall be eligible for services under this chapter if all of the following conditions are met:

(a) A physician who does not have a financial interest in the long-term care facility in which the individual resides, and who is in charge of the individual's case prescribes work as therapy for the individual.

(b) The individual must be employed within the long-term care facility.

(c) Thirty percent of the individual's earned income is used to help defray the cost of his or her care.

(d) The individual's employment does not displace any existing employees.

(e) The individual has resided in a long-term care facility for a continuous period commencing at least five years prior to the date of the addition of this section during the 1983–84 Regular Session.

The provisions of this section shall be given retroactive effect for the period commencing June 1, 1983.

This section shall not become operative unless and until the necessary waivers can be obtained from the United States Department of Health and Human Services.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill 640 are both chaptered and become effective on or before January 1, 1984, both bills amend Section 1254 of the Health and Safety Code, and this bill is chaptered after Senate Bill 640, that Section 1254 of the Health and Safety Code, as amended by Section 1 of Senate Bill 640, be further amended on the effective date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 1254 proposed by this bill. Therefore, if this bill and Senate Bill 640 are both chaptered and become effective on or before January 1, 1984, and Senate Bill 640 is chaptered before this bill and amends Section 1254, Section 2 of this act shall become operative on the effective date of this act and Section 1 of this act shall not become operative.

CHAPTER 1286

An act to to amend Sections 6282, 6283, 6292, 6293, 6388, 6388.5, and 10758 of the Revenue and Taxation Code, and to amend Sections 320, 430, 580, 672, 675, 4150, 4150.2, 4153, 4456, 4456.1, 8803, 9262, 9550, 11520, 11700, 11701, 11702, 11703, 11703.1, 11703.2, 11705, 11705.2, 11706, 11708, 11710, 11713, 11713.5, 11715, 11716, 11719, and 40000.7 of, to add Sections 507.5, 507.8, 11713.7, and 11713.8 to, to add Article 12 (commencing with Section 5500) to Chapter 1 of Division 3 of, and to repeal Sections 500 and 11521 of, the Vehicle Code, relating to vehicles.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983.]

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

SECTION 1. Section 6282 of the Revenue and Taxation Code is amended to read:

6282. There are exempted from the computation of the amount of the sales tax the gross receipts from sales of mobilehomes or commercial coaches required to be annually registered under the Health and Safety Code or vehicles required to be registered under the Vehicle Code when the retailer is other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code.

This exemption does not extend to the rentals payable under a lease of tangible personal property.

SEC. 2. Section 6283 of the Revenue and Taxation Code is amended to read:

6283. There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code or of a vessel or of an aircraft when the retailer is other than a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, vessels, or of aircraft, as the case may be. This exemption does not apply to sales of vehicles required to be identified under Division 16.5 (commencing with Section 38000) of the Vehicle Code when the retailer is a person licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, or dismantler.

SEC. 3. Section 6292 of the Revenue and Taxation Code is amended to read:

6292. (a) Except when the sale is by lease, when a mobilehome or commercial coach required to be registered annually under the Health and Safety Code or a vehicle required to be registered under the Vehicle Code is sold at retail by other than a person licensed or certificated pursuant to the Health and Safety Code or the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Housing and Community Development acting for and on behalf of the board pursuant to Section 18076.15 of the Health and Safety Code or to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 4750.5 of the Vehicle Code.

(b) If the purchaser makes an application to either department which is not timely, and is subject to penalty because of delinquency in effecting registration or transfer of registration of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591, but no interest shall accrue.

(c) Application to the appropriate department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to either department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

SEC. 4. Section 6293 of the Revenue and Taxation Code is amended to read:

6293. (a) Except when the sale is by lease, when a vehicle subject to identification under Division 16.5 (commencing with Section 38000) of the Vehicle Code is sold at retail by other than a person

licensed or certificated pursuant to the Vehicle Code as a manufacturer, remanufacturer, dealer, dismantler, or lessor-retailer, subject to Section 11615.5 of the Vehicle Code, or a person required to hold a seller's permit pursuant to Article 2 (commencing with Section 6066) of Chapter 2 by reason of the number, scope, and character of his or her sales of those vehicles, the retailer is not required or authorized to collect the use tax from the purchaser, but the purchaser of the vehicle shall pay the use tax to the Department of Motor Vehicles acting for and on behalf of the board pursuant to Section 38211 of the Vehicle Code.

(b) If the purchaser makes an application to that department which is not timely, and is subject to penalty because of delinquency in effecting identification or transfer of ownership of the vehicle, he or she then becomes liable also for penalty as specified in Section 6591 of this code, but no interest shall accrue.

(c) Application to that department by the purchaser relieves the purchaser of the obligation to file a return with the board under Section 6452.

(d) If the purchaser does not make application to that department, or does not pay the amount of use tax due, or files a return with the board under Section 6455 which is not timely, interest and penalties shall apply with respect to the unpaid amount as provided in Chapter 5 (commencing with Section 6451).

SEC. 5. Section 6388 of the Revenue and Taxation Code is amended to read:

6388. Where a new or remanufactured truck, truck tractor, semitrailer, or trailer, any of which has an unladen weight of 6,000 pounds or more, or a new or remanufactured trailer coach or a new or remanufactured auxiliary dolly, is purchased from a dealer located outside this state for use without this state and is delivered by the manufacturer or remanufacturer to the purchaser within this state, and the purchaser drives or moves the vehicle from the manufacturer's or remanufacturer's place of business in this state to any point outside this state within 30 days from and after the date of the delivery, there are exempted from the taxes imposed by this part the gross receipts from the sale of and the storage, use or other consumption of the vehicle within the state, if the purchaser furnishes the following to the manufacturer or remanufacturer:

(a) Written evidence of an out-of-state registration for the vehicle.

(b) The purchaser's affidavit attesting that he or she is not a resident of California and that he or she purchased the vehicle from a dealer at a specified location without the state for use outside this state.

(c) The purchaser's affidavit that the vehicle has been moved or driven to a point outside this state within 30 days of the date of the delivery of the vehicle to him or her.

SEC 6. Section 6388.5 of the Revenue and Taxation Code is amended to read:

6388.5. Notwithstanding Section 6388, whenever a new or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more which has been manufactured or remanufactured outside this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, 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 or remanufactured trailer or semitrailer with an unladen weight of 6,000 pounds or more which has been manufactured or remanufactured in this state is purchased for use without this state and is delivered by the manufacturer, remanufacturer, 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, if the purchaser furnishes the following to the manufacturer, remanufacturer, 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. 7. Section 10758 of the Revenue and Taxation Code is amended to read:

10758. The license fee imposed under this part is in lieu of all taxes according to value levied for state or local purposes on vehicles of a type subject to registration under the Vehicle Code whether or not the vehicles are registered under the Vehicle Code.

"Vehicle of a type subject to registration under the Vehicle Code," as used in this section, includes, but is not limited to, (a) any motor vehicle in the inventory of vehicles held for sale by a manufacturer, remanufacturer, distributor, or dealer in the course of his or her business, (b) any unoccupied trailer coach in the inventory of trailer coaches held for sale by a manufacturer, remanufacturer, distributor, or dealer in the course of his or her business, or (c) any vehicle described in Section 5004 of the Vehicle Code, not used in a trade, profession, or business, whether or not the vehicle has been issued special identification plates.

SEC. 8. Section 320 of the Vehicle Code is amended to read:

320. (a) "Established place of business" is a place actually occupied either continuously or at regular periods by:

(1) A dealer, remanufacturer, remanufacturer branch, manufacturer, manufacturer branch, distributor, distributor branch, or automobile driving school where the books and records pertinent to the type of business being conducted are kept. The place of business shall have an office and, in the case of a dealer, manufacturer, or remanufacturer, shall have a display or manufacturing area situated on the same property where the business peculiar to the type of license issued by the department is or may be transacted. When a room or rooms in a hotel, roominghouse, apartment house building, or a part of any single- or multiple-unit dwelling house is used as an office or offices of an established place of business, the room or rooms shall be devoted exclusively to and occupied for the office or offices of the dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or automobile driving school, shall be located on the ground floor, and shall be so constructed as to provide a direct entrance into the room or rooms from the exterior of the building. A dealer who does not offer vehicles for sale at retail, or a dealer who is a wholesaler involved for profit only in the sale of vehicles between licensed dealers, shall have an office, but a display area is not required.

(2) An automobile dismantler where the books and records pertinent to the type of business being conducted are kept. The place of business shall have an office and a dismantling area located in a zone properly zoned for that purpose by the city, county, or city and county. A place of business of an automobile dismantler which qualified as an "established place of business" before September 17, 1970, an "established place of business" as defined in this section.

(b) A licensee issued an occupational license by the department and conducting more than one type of business from an establishment, as herein defined, shall provide a clear physical division between the types of business involving vehicles or their component parts. The place of business shall be open to inspection of the premises, pertinent records, and vehicles by any peace officer during business hours.

SEC. 9. Section 430 of the Vehicle Code is amended to read:

430. A "new vehicle" is a vehicle constructed entirely from new parts that has never been sold and operated, or registered with the department, or registered with the appropriate agency of authority, or sold and operated upon the highways of any other state, District of Columbia, territory or possession of the United States, or foreign state, province, or country. The word "sold" does not include or extend to any sale made by a manufacturer or a distributor to a dealer or by a dealer to another dealer licensed under this code.

SEC. 10. Section 500 of the Vehicle Code is repealed.

SEC. 11. Section 507.5 is added to the Vehicle Code, to read:

507.5. A "remanufactured vehicle" is a vehicle that has been constructed by a licensed remanufacturer and consists of any used or reconditioned integral parts, including, but not limited to, frame,

engine, transmission, axles, brakes, or suspension. Remanufactured vehicles may be sold under a distinctive trade name. An existing vehicle which is incidently repaired, restored, or modified by replacing or adding parts or accessories is not a remanufactured vehicle.

SEC. 12. Section 507.8 is added to the Vehicle Code, to read:

507.8. A "remanufacturer" is any person who for commission, money, or other thing of value, produces a vehicle that consists of any used or reconditioned integral parts, including, but not limited to, frame, engine, transmission, axles, brakes, or suspension which is subject to registration under this code. A remanufacturer is not a person who incidently repairs, restores, or modifies an existing vehicle by replacing or adding parts or accessories.

SEC. 13. Section 580 of the Vehicle Code is amended to read:

580. A "specially constructed vehicle" is a vehicle which is built for private use, not for resale, and is not constructed by a licensed manufacturer or remanufacturer A specially constructed vehicle may be built from (1) a kit; (2) new or used, or a combination of new and used, parts; or (3) a vehicle reported for dismantling, as required by Section 5500 or 11520, which, when reconstructed, does not resemble the original make of the vehicle dismantled. A specially constructed vehicle is not a vehicle which has been repaired or restored to its original design by replacing parts.

SEC. 14. Section 672 of the Vehicle Code is amended to read:

672. (a) "Vehicle manufacturer" is any person who produces from raw materials or new basic components a vehicle of a type subject to registration under this code, or off-highway motorcycles subject to indentification under this code, or who permanently alters, for purposes of retail sales, new commercial vehicles by converting the vehicles into housecars which display the insignia of approval required by Section 18056 of the Health and Safety Code and any regulations issued pursuant thereto by the Department of Housing and Community Development. As used in this section, "permanently alters" does not include the permanent attachment of a camper to a vehicle.

(b) A vehicle manufacturer who produces a vehicle of a type subject to registration that consists of used or reconditioned parts, for the purposes of the code, is a remanufacturer, as defined in Section 507.8.

(c) Unless a vehicle manufacturer either grants franchises to franchisees in this state, or issues vehicle warranties directly to franchisees in this state or consumers in this state, the manufacturer shall have an established place of business or a representative in this state.

(d) The scope and application of this section is limited to Division 2 (commencing with Section 1500) and Division 5 (commencing with Section 11100).

SEC. 15. Section 675 of the Vehicle Code is amended to read:

675. (a) "Vehicle salesman" is a person not otherwise expressly

excluded by this section, who does one or a combination of the following:

(1) Is employed as a salesman by a dealer, as defined in Section 285, 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 vehicle required to be registered under this code.

(2) Induces or attempts to induce any person to buy or exchange an interest in a vehicle required to be registered, 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 vehicle.

(3) Exercises managerial control over the business of a licensed vehicle dealer or who supervises vehicle salesmen 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 vehicle 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 vehicle on behalf of the licensed vehicle dealer.

(b) The term "vehicle salesman" does not include any of the following:

(1) Representatives of insurance companies, finance companies, or public officials, who in the regular course of business, are required to dispose of or sell vehicles under a contractual right or obligation of the employer, or in the performance of an official duty, or under the authority of any court of law, if the sale is for the purpose of saving the seller from any loss or pursuant to the authority of a court of competent jurisdiction.

(2) Persons who are licensed as a manufacturer, remanufacturer, transporter, distributor, or representative.

(3) Persons exclusively employed in a bona fide business of exporting vehicles, or of soliciting orders for the sale and delivery of vehicles outside the territorial limits of the United States.

(4) Persons not engaged in the purchase or sale of vehicles as a business, disposing of vehicles acquired for their own use, or for use in their business when the vehicles have been so acquired and used in good faith, and not for the purpose of avoiding the provisions of this code.

(5) Persons regularly employed as salesmen by persons who are engaged in a business involving the purchase, sale, or exchange of boat trailers.

(6) Persons regularly employed as salesmen by persons who are engaged in a business activity which does not involve the purchase, sale, or exchange of vehicles, except incidentally in connection with the purchase, sale, or exchange of vehicles of a type not subject to registration under this code, boat trailers, or midget autos or racers

advertised as being built exclusively for use by children.

(7) Persons licensed as a vehicle dealer under this code doing business as a sole ownership or member of a partnership or a stockholder and director of a corporation licensed as a vehicle dealer under this code. However, those persons shall engage in the activities of a salesman, as defined herein, exclusively on behalf of the sole ownership or partnership or corporation in which they own an interest or stock, and those persons owning stock shall be directors of the corporation; otherwise, they shall be deemed to be vehicle salesmen and subject to Article 2 (commencing with Section 11800) of Chapter 4 of Division 5.

(8) Persons regularly employed as salespersons by a vehicle dealer authorized to do business in California under Section 11700.1 of the Vehicle Code.

SEC. 16. Section 4150 of the Vehicle Code is amended to read:

4150. Application for the original registration of a vehicle of a type required to be registered under this code shall be made by the owner to the department upon the appropriate form furnished by it and shall contain all of the following:

(a) The true name and business or residence address of the owner, and of the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the vehicle, including the following data insofar as they may exist:

(1) The make, model, and type of body.

(2) The vehicle identification number or any other identifying number as may be required by the department.

(3) The date first sold by a manufacturer, remanufacturer, or dealer to a consumer.

(d) Such information as may reasonably be required by the department to enable it to determine whether the vehicle is lawfully entitled to registration.

SEC. 17. Section 4150.2 of the Vehicle Code is amended to read:

4150.2. Application for the original registration of a motorcycle shall be made by the owner to the department upon the appropriate form furnished by it, and shall contain all of the following:

(a) The true name and business or residence address of the owner, and the legal owner, if any.

(b) The name of the county in which the owner resides.

(c) A description of the motorcycle, including the following data insofar as they may exist:

(1) The make and type of body.

(2) The motor and frame numbers recorded exactly as stamped on the engine and frame, respectively, by the manufacturer, and any other identifying number of the motorcycle as may be required by the department.

(3) The date first sold by a manufacturer, remanufacturer or dealer to a consumer.

(d) Such information as may reasonably be required by the

department to enable it to determine whether the vehicle is lawfully entitled to registration.

(e) The department shall maintain a cross-index file of motor and frame numbers registered with it.

The application shall be accompanied by a tracing, tape lift, or photograph of the motor and frame numbers, or where such facsimile of the motor or frame number cannot be obtained, a verification of the number shall be required.

SEC. 18. Section 4153 of the Vehicle Code is amended to read:

4153. If the vehicle to be registered is a specially constructed or remanufactured vehicle, the application shall also state that fact and contain additional information as may reasonably be required by the department to enable it properly to register the vehicle.

SEC. 19. Section 4456 of the Vehicle Code is amended to read:

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

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

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

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

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

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

SEC. 20. Section 4456.1 of the Vehicle Code is amended to read:

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

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

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

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

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

(c) A dealer or lessor-retailer who violates paragraph 4 of subdivision (a) of Section 4456, when selling a used or

remanufactured vehicle, shall pay to the department an administrative service fee as follows:

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

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

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

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

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

SEC. 21. Article 12 (commencing with Section 5500) is added to Chapter 1 of Division 3 of the Vehicle Code, to read:

Article 12. Surrender of Registration Documents and License Plates

5500. Any person, other than a licensed dismantler, desiring to disassemble a vehicle of a type required to be registered under this code, either partially or totally, with the intent to use as parts only, to reduce to scrap, or to construct another vehicle shall deliver to the department the certificate of ownership, registration card and the license plates last issued to the vehicle before dismantling may begin.

5501. The provisions of Sections 4457, 4458, and 4459 shall not apply when a vehicle is reported for dismantling. However, any person desiring to dismantle a vehicle shall, in accordance with Section 5500 or 11520, surrender to the department the certificate of ownership, registration card, and license plate or plates last issued for the vehicle. In the event the person so reporting is unable to furnish the certificate of ownership, registration card, and license plate or plates last issued to the vehicle, or any of them, the department may receive the report and application, examine into the circumstances of the case, and may require the filing of suitable affidavits, or other information or documents. No duplicate certificate of ownership, registration card, license plate or plates will be issued when a vehicle is reported for dismantling. No fees shall be required for acceptance of any affidavit provided pursuant to this section or on account of any stolen, lost or damaged certificate, card, plate or plates or duplicates thereof, unless the vehicle is subsequently registered in accordance with Section 11519.

SEC. 21.5. Section 8803 of the Vehicle Code is amended to read:

8803. Whenever the department cancels, suspends, or revokes the license of a dealer, manufacturer, remanufacturer, transporter,

dismantler, or salesman, the licensee or person in possession shall immediately return the license, documents, plates, certificates, and other evidence of license to the department.

SEC. 22. Section 9262 of the Vehicle Code is amended to read:

9262. (a) The fee for a license issued to dealers and lessor-retailers shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred fifty dollars ($150).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) If an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of seventy dollars ($70).

(b) The fee for a license issued to dismantlers, manufacturers, manufacturer branches, remanufacturers, remanufacturer branches, distributors, and distributor branches shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred dollars ($100).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) If an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of fifty dollars ($50).

(c) The fee for a license issued to transporters shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of one hundred dollars ($100).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(3) If an alteration of an existing license is caused by a firm name change, address change, or the addition of a branch location, a fee of fifty dollars ($50).

(d) The fee for a license issued to representatives shall be:

(1) For the original license, or an ownership change which requires a new application, except as provided by Section 42231, a nonrefundable fee of fifty dollars ($50).

(2) For the annual renewal of a license, a fee of fifteen dollars ($15).

(e) When the holder of a license as indicated above applies for special plates as provided in subdivision (b) of Section 11714, the fee for the plates and the annual renewal of the plates shall be the prevailing vehicle registration fee as set forth in Section 9250 during the period for which the special plates are issued or renewed.

SEC. 23. Section 9550 of the Vehicle Code is amended to read:

9550. All fees required to be paid by a vehicle dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch,

representative, or transporter, in accordance with this code, for any license or special plates shall be paid at the time application is made to the department.

SEC. 23.2. Section 11520 of the Vehicle Code is amended to read:

11520. (a) A licensed automobile dismantler who acquired, for the purpose of dismantling, actual possession, as a transferee, of a vehicle of a type subject to registration under this code shall do all of the following:

(1) Within five calendar days, not including the day of acquisition, mail a notice of acquisition to the department at its headquarters.

(2) Within five calendar days, not including the day of acquisition, mail a copy of the notice of acquisition to the Department of Justice at its headquarters.

(3) Not begin dismantling until 10 calendar days have elapsed after mailing the notice of acquisition. In the alternative, dismantling may begin any time after the dismantler complies with paragraph (4).

(4) Deliver to the department, within 90 calendar days of the date of acquisition, the documents evidencing ownership and the license plates last issued for the vehicle. Proof that a registered or certified letter of demand for the documents was sent within 90 days of the date of acquisition to the person from whom the vehicle was acquired may be substituted for documents that cannot otherwise be obtained. A certificate of license plate destruction, when authorized by the director, may be delivered in lieu of the license plates.

(5) Maintain a business record of all vehicles acquired for dismantling. The record shall contain the name and address of the person from whom the vehicle was acquired; the date the vehicle was acquired; the license plate number last assigned to the vehicle; and a brief description of the vehicle, including its make, type, and the vehicle identification number used for registration purposes. The record required by this subdivision shall be a business record of the dismantler separate and distinct from the records maintained in those books and forms furnished by the department.

(b) Paragraphs (1) and (2) of subdivision (a), do not apply to vehicles acquired pursuant to Section 11515 or 22851.2 of this code or Section 3071, 3072, or 3073 of the Civil Code.

(c) Any person who violates this section is guilty of a misdemeanor. Any person not licensed under this chapter who is convicted under this section shall be punished upon a first conviction by imprisonment in the county jail for not less than five days or more than six months or by a fine of not less than fifty dollars ($50) nor more than five hundred dollars ($500) or by both such fine and imprisonment; and upon a second or any subsequent conviction, by imprisonment in the county jail for not less than 30 days nor more than one year or by a fine of not less than two hundred fifty dollars ($250) nor more than one thousand dollars ($1,000) or by both such fine and imprisonment.

SEC. 23.5. Section 11521 of the Vehicle Code is repealed.

SEC. 24. Section 11700 of the Vehicle Code is amended to read:

11700. It is unlawful for any person to act as a dealer, remanufacturer, manufacturer, or transporter, and it is unlawful for any person to act as a manufacturer branch, remanufacturer branch, distributor, or distributor branch, without having first procured a license as required in Section 11701 or temporary permit issued by the department, or when the license or temporary permit issued by the department has been canceled, suspended, revoked, invalidated, expired, or the terms and conditions of an agreement effected pursuant to Section 11707 have not been fulfilled.

SEC. 25. Section 11701 of the Vehicle Code is amended to read:

11701. Every manufacturer of, and manufacturer branch, remanufacturer of, and remanufacturer branch, distributor of, and distributor branch, transporter of, or dealer in vehicles of a type subject to registration, or snowmobiles or motorcycles of a type subject to identification, shall make application to the department for a license containing a general distinguishing number. The applicant shall submit proof of his or her status as a bona fide manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer as may reasonably be required by the department.

SEC. 26. Section 11702 of the Vehicle Code is amended to read:

11702. The department may issue, or for reasonable cause shown, refuse to issue a license to any applicant applying for a manufacturer's, manufacturer's branch, remanufacturer's, remanufacturer's branch, distributor's, distributor's branch, transporter's, or dealer's license.

SEC. 27. Section 11703 of the Vehicle Code is amended to read:

11703. The department may refuse to issue a license to a manufacturer, manufacturer branch, remanufacturer, remanufacturer 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 been convicted of a felony or a crime involving moral turpitude. A conviction after a plea of nolo contendere is 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 the applicant was the representative of the business regulated under that 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. 28. Section 11703.1 of the Vehicle Code is amended to read:

11703.1. Any of the causes specified in Section 11705 as a cause to suspend or revoke the license issued to a dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or transporter, is cause to refuse to issue a license to a dealer, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or transporter.

SEC. 29. Section 11703.2 of the Vehicle Code is amended to read:

11703.2. The department may refuse to issue a license to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, when it determines that the applicant has outstanding an unsatisfied final judgment rendered in connection with the purchase, sale, or lease of any vehicle

SEC. 30. 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, remanufacturer, remanufacturer 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 the license.

(2) Has made, or knowingly or negligently permitted, any illegal use of the special plates issued to the 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 the 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 that person or fraudulent representations made to that 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 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, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer applicant is cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, or dealer.

(c) Except as provided in Section 11707, every hearing, as provided for in this section, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 31. Section 11705.2 of the Vehicle Code is amended to read:

11705.2. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has violated any of the provisions of Part 2 (commencing with Section 18000) of Division 13 of, or Section 18613 of, the Health and Safety Code or any rules and regulations adopted pursuant thereto.

(b) Every hearing, as provided for in this section, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 32. Section 11706 of the Vehicle Code is amended to read:

11706. The department may, pending a hearing, temporarily suspend the license and special plates issued to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, for a period not to exceed 30 days, if the director finds that such action is required in the public interest. In any such case, a hearing shall be held and a decision thereon issued within 30 days after notice of the temporary suspension.

Every hearing, as provided for in this section, shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 33. Section 11708 of the Vehicle Code is amended to read:

11708. (a) Upon refusal of the department to issue a license and special plates to a manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter, or dealer, the applicant shall be entitled to demand, in writing, a hearing before the director or his or her representative within 60 days after notice of refusal.

(b) The hearing shall be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 34. Section 11710 of the Vehicle Code is amended to read:

11710. (a) Before any dealer's or remanufacturer's license is issued or renewed by the department to any applicant therefor, the applicant shall procure and file with the department a bond executed by an admitted surety insurer, approved as to form by the Attorney General, and conditioned that the applicant shall not practice any fraud or make any fraudulent representation which will cause a monetary loss to a purchaser, seller, financing agency, or governmental agency.

(b) A dealer bond shall be in the amount of five thousand dollars ($5,000). A remanufacturer bond shall be in the amount of twenty-five thousand dollars ($25,000).

(c) Liability under the bond is to remain at full value. If the amount of liability under the bond is decreased or there is outstanding a final court judgment for which the dealer or remanufacturer and sureties are liable, the dealer's or remanufacturer's license shall be automatically suspended. In order to reinstate the license and special plates, the licensee shall either file an additional bond or restore the bond on file to the original amount, or shall terminate the outstanding judgment for which the dealer or remanufacturer and sureties are liable.

(d) A dealer's or remanufacturer's license, or renewal of the license, shall not be issued to any applicant therefor, unless and until the applicant files with the department a good and sufficient instrument, in writing, in which the applicant appoints the director as the true and lawful agent of the applicant upon whom all process may be served in any action, or actions, which may thereafter be commenced against the applicant, arising out of any claim for damages suffered by any firm, person, association, or corporation, by reason of the violation of the applicant of any of the terms and provisions of this code or any condition of the dealer's or remanufacturer's bond. The applicant shall stipulate and agree in the appointment that any process directed to the applicant, when personal service of process upon the applicant cannot be made in this state after due diligence and, in such a case, is served upon the director or, in the event of the director's absence from the office, upon any employee in charge of the office of the director, shall be of the same legal force and effect as if served upon the applicant personally. The applicant shall further stipulate and agree, in

writing, that the agency created by the appointment shall continue for and during the period covered by any license that may be issued and so long thereafter as the applicant may be made to answer in damages for a violation of this code or any condition of the bond. The instrument appointing the director as the agent for the applicant for service of process shall be acknowledged by the applicant before a notary public. In any case where the licensee is served with process by service upon the director, one copy of the summons and complaint shall be left with the director or in the director's office in Sacramento or mailed to the office of the director in Sacramento. A fee of five dollars ($5) shall also be paid to the director at the time of service of the copy of the summons and complaint. Service on the director shall be a sufficient service on the licensee if a notice of service and a copy of the summons and complaint are immediately sent by registered mail by the plaintiff or the plaintiff's attorney to the licensee. A copy of the summons and complaint shall also be mailed by the plaintiff or the plaintiff's attorney to the surety on the applicant's bond at the address of the surety given in the bond, postpaid and registered with request for return receipt. The director shall keep a record of all process so served upon the director, which record shall show the day and hour of service and shall retain the summons and complaint so served on file. Where the licensee is served with process by service upon the director, the licensee shall have and be allowed 30 days from and after the service within which to answer any complaint or other pleading which may be filed in the cause. However, for purposes of venue, where the licensee is served with process by service upon the director, the service is deemed to have been made upon the licensee in the county in which the licensee has or last had an established place of business.

SEC. 35. Section 11713 of the Vehicle Code is amended to read:

11713. It is unlawful and a violation of this code for the holder of any license issued under this article:

(a) To make or disseminate or cause to be made or disseminated before the public in this state, in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, any statement which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading; or to so make or disseminate or cause to be so disseminated any such statement as part of a plan or scheme with the intent not to sell any vehicle or service so advertised at the price stated therein, or as so advertised.

(b) To advertise or offer for sale or exchange in any manner, any vehicle not actually for sale at the premises of the dealer or available to the dealer from the manufacturer or distributor of the vehicle at the time of the advertisement or offer. However, this subdivision does not apply to advertising or offering for sale or exchange any used mobilehome or used commercial coach, as defined by Section 18014 of the Health and Safety Code, other than a recreational

vehicle, as defined by Section 18010 of the Health and Safety Code, where the advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome or commercial coach and the owner of the mobilehome park, and which mobilehome or commercial coach is either in place on a lot rented or leased for human habitation within an established mobilehome park, as defined in Section 18214 of the Health and Safety Code, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and the use would be authorized, for a total and uninterrupted period of at least one year.

(c) To fail within 48 hours in writing to withdraw any advertisement of a vehicle that has been sold or withdrawn from sale.

(d) To advertise or represent a vehicle as a new vehicle if the vehicle falls within the purview of Section 665.

(e) To engage in the business for which licensee is licensed without having in force and effect a bond as required by this article.

(f) For any licensed dealer to engage in the business for which the dealer is licensed without at all times maintaining an established place of business as required by this code.

(g) To include, as an added cost to the selling price of a vehicle, an amount for licensing or transfer of title of the vehicle, which amount is not due to the state unless, prior to the sale, that amount has been paid by a dealer to the state in order to avoid penalties that would have accrued because of late payment of the fees. However, a dealer may collect from the second purchaser of a vehicle a prorated fee based upon the number of months remaining in the registration year for that vehicle, if the vehicle had been previously sold by the dealer and the sale was subsequently rescinded and all the fees that were paid, as required by this code and Chapter 2 (commencing with Section 10751) of Division 2 of the Revenue and Taxation Code, were returned to the first purchaser of the vehicle.

(h) To employ any person as a salesman who has not been licensed pursuant to Article 2 (commencing with Section 11800), and whose license is not displayed on the premises of the dealer as required by Section 11812.

(i) To deliver, following sale, a vehicle for operation on California highways, if the vehicle does not meet all of the equipment requirements of Division 12 (commencing with Section 24000).

(j) To use or permit the use of the special plates assigned to him for any purpose other than as permitted by Section 11715.

(k) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on behalf of or at the place of business of the license holder, that no downpayment is required in connection with the sale of a vehicle when a downpayment is in fact required and the buyer is advised or induced to finance the downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the vehicle.

(*l*) To participate in the sale of a vehicle reported to the

Department of Motor Vehicles under Section 5900 or 5901 without making the return and payment of any sales tax due and required by Section 6451 of the Revenue and Taxation Code.

(m) To permit the use of the dealer's license, supplies, or books by any other person for the purpose of permitting that person to engage in the sale of vehicles required to be registered under this code, or to permit the use of the dealer's license, supplies, or books to operate a branch location to be used by any other person, whether or not the licensee has any financial or equitable interest or investment in the vehicles sold by, or the business of, or branch location used by, the other person.

(n) To violate any of the provisions of Article 10 (commencing with Section 28050) of Chapter 5 of Division 12.

(o) To violate any of the provisions of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code or any rules and regulations adopted pursuant thereto.

SEC. 36. Section 11713.5 of the Vehicle Code is amended to read:

11713.5. (a) It is unlawful and a violation of this code for the holder of any license issued under this article to display for sale, offer for sale, or sell, a motor vehicle, representing the motor vehicle to be of a year model different from the year model designated at the time of manufacture or first assembly as a completed vehicle.

(b) It is unlawful and a violation of this code for the holder of any license issued under this article to directly or indirectly authorize or advise another holder of a license issued under this article to change the year model of a motor vehicle in the inventory of the other holder.

(c) It is unlawful and a violation of this code for the holder of any license issued under this article to display for sale, offer for sale, or sell, a housecar which has been manufactured in two or more stages, unless the licensee informs the buyer that the housecar has been so manufactured and the licensee provides the buyer with a form, approved by the department, which sets forth the date of chassis and engine manufacture and the date and model year of the other stages of the vehicle. The licensee shall retain a copy of the form, which shall be signed by the purchaser prior to entering into any sales contract, indicating that the purchaser has received a copy of the form.

(d) This section does not apply to the displaying or offering for sale, or selling, of any new motortruck or truck tractor weighing over 10,000 pounds.

(e) This section does not apply to a vehicle which has been remanufactured by a licensed remanufacturer. The year model of a remanufactured vehicle will be the year the vehicle was remanufactured.

SEC. 37. Section 11713.7 is added to the Vehicle Code, to read:

11713.7. Disclosure to a buyer that a vehicle has been remanufactured is required. Disclosure shall be accomplished by all of the following:

(a) Oral notification to the buyer.

(b) The statement "THIS VEHICLE HAS BEEN REMANUFACTURED AND CONTAINS USED OR RECONDITIONED PARTS" shall appear in a type size at least the same as the bulk of the text on the purchase order or conditional sales contract signed by the buyer.

(c) The statement that the vehicle is remanufactured and contains used or reconditioned parts shall appear in any advertisement pertaining to remanufactured vehicles.

(d) Remanufactured vehicles displayed for retail purposes shall be clearly designated as remanufactured. The disclosure statement required in subdivision (b) shall appear on the vehicle or at the location where the vehicles are displayed.

SEC. 38. Section 11713.8 is added to the Vehicle Code, to read:

11713.8. It is unlawful and a violation of this code for a remanufacturer licensed under this code to fail to do any of the following:

(a) Report to the department an existing vehicle identification number when a used frame is utilized.

(b) Die stamp the vehicle identification number to the frame of the vehicle when a new vehicle identification number is assigned.

(c) Disclose that a vehicle is remanufactured and contains used or reconditioned parts as required by Section 11713.7.

(d) Remove the trade name of the original manufacturer from the vehicle, unless the remanufacturer and the original manufacturer are same.

(e) Maintain for three years bills of sale or invoices for used parts utilized in a remanufactured vehicle.

(f) Maintain for three years proof that the vehicle was reported dismantled, as required by Section 5500 or 11520, when a used frame is utilized in a remanufactured vehicle.

(g) Disclose, on the vehicle identification number plate or label, that the vehicle is remanufactured and includes used parts.

(h) Disclose to the dealer on a document signed by the dealer that the vehicle is remanufactured and contains used parts.

SEC. 39. Section 11715 of the Vehicle Code is amended to read:

11715. (a) A manufacturer, remanufacturer, distributor, or dealer owning or lawfully possessing any vehicle of a type otherwise required to be registered under this code may operate or move the vehicle upon the highways without registering each such vehicle upon condition that any such vehicle display thereon special plates issued to the owner as provided in this chapter, in addition to other license plates or permits already assigned and attached to the vehicle in the manner prescribed in Sections 5200 to 5203, inclusive. The vehicles may also be moved or operated for the purpose of towing or transporting by any lawful method other vehicles.

(b) A transporter may operate or move any owned or lawfully possessed vehicle of like type by any lawful method upon the highways solely for the purpose of delivery, upon condition that

there be displayed upon each vehicle in contact with the highway special license plates issued to the transporter as provided in this chapter, in addition to any license plates or permits already assigned and attached to the vehicle in the manner prescribed in Sections 5200 to 5203, inclusive. The vehicles may be used for the purpose of towing or transporting by any lawful method other vehicles when the towing or transporting vehicle is being delivered for sale or to the owner thereof.

(c) This section does not apply to any manufacturer, remanufacturer, transporter, distributor, or dealer operating or moving a vehicle as provided in Section 11716.

(d) This section does not apply to work or service vehicles owned by a manufacturer, remanufacturer, transporter, distributor, or dealer. This section does not apply to vehicles owned and leased by dealers, except those vehicles rented or leased to vehicle salesmen in the course of their employment for purposes of display or demonstration, nor to any unregistered vehicles used to transport more than one load of other vehicles for the purpose of sale.

(e) This section does not apply to vehicles currently registered in this state which are owned and operated by a licensed dealer when the notice of transfer has been forwarded to the department by the former owner of record pursuant to Section 5900 and when a copy of the notice is displayed as follows:

(1) For a motorcycle or motor-driven cycle, the notice is displayed in a conspicuous manner upon the vehicle.

(2) For a vehicle other than a motorcycle or motor-driven cycle, the notice is displayed in the lower right-hand corner of the windshield of the vehicle, as specified in paragraph (3) of subdivision (b) of Section 26708.

(f) Every owner, upon receipt of a registration card issued for special plates, shall maintain the same or a facsimile copy thereof with the vehicle bearing the special plates.

SEC. 40. Section 11716 of the Vehicle Code is amended to read:

11716. A manufacturer, remanufacturer, transporter, or a dealer, in the course of his business, may operate or move any vehicle of a type otherwise required to be registered under this code without registering the vehicle, and without license or special plates attached thereto, from a vessel, railroad depot, or warehouse over the highways to a warehouse or salesroom upon first having obtained a written permit authorizing such operation from the department.

SEC. 41. Section 11719 of the Vehicle Code is amended to read:

11719. Pending the satisfaction of the department that the applicant has met the requirements under this article, it may issue a temporary permit to any person applying for a manufacturer's, manufacturer's branch, remanufacturer's, remanufacturer's branch, distributor's, distributor's branch, transporter's, or dealer's license and special plates. The temporary permit shall permit the operation by the manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, distributor branch, transporter,

or dealer for a period not to exceed 120 days while the department is completing its investigation and determination of all facts relative to the qualifications of the applicant to the license and special plates. The department may cancel the temporary permit when it has determined, or has reasonable cause to believe, that the application is incorrect or incomplete or the temporary permit was issued in error. The temporary permit is invalid when canceled or when the applicant's license has been issued or refused.

SEC. 42. 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:

(a) Section 2416, relating to regulations for emergency vehicles.

(b) Section 2800, relating to failure to obey an officer's lawful order or submit to a lawful inspection.

(c) Section 2800.1, relating to fleeing from a peace officer.

(d) Section 2801, relating to failure to obey a fireman's lawful order.

(e) Section 2803, relating to unlawful vehicle or load.

(f) Section 2813, relating to stopping for inspection.

(g) Subdivision (b) of Section 4461 and subdivisions (b) and (c) of Section 4463, relating to disabled person placards.

(h) Section 5500, relating to the surrender of registration documents and license plates before dismantling may begin.

(i) 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.

(j) Section 5901, relating to dealers and lessor-retailers giving notice.

(k) Section 5901.1, relating to lessors giving notice and failure to pay fee.

(*l*) 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.

(m) Section 8803, relating to return of canceled, suspended, or revoked documents and license plates of a dealer, manufacturer, remanufacturer, transporter, dismantler, or salesman.

SEC. 43. 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 1287

An act to add Section 785 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 29, 1983. Filed with Secretary of State September 30, 1983]

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

SECTION 1. This act shall be known and may be cited as the California Gas Policy Act.

SEC. 2. The Legislature finds and declares as follows:

(a) California gas production is an important part of the state's gas supply.

(b) The actual delivered cost of California produced gas is presently lower than the cost of alternative out-of-state and Canadian gas supplies.

(c) California gas is produced and made available by California businesses and California taxpayers employing California workers.

(d) California gas consumers are entitled to a "least cost supply mix" in the gas supplies made available to them for purchase.

It is, therefore, the intent of the Legislature in enacting this act to declare it to be the policy of this state, for the benefit of the state's economy and people, both as producers and consumers, to require, to the extent consistent with federal law and regulation and contractual obligations regarding other available gas, the state's public utility gas corporations to purchase all available supplies of low-cost California gas first, provided that such purchases do not result in higher overall costs of gas or other consequences adverse to the interests of gas customers.

SEC. 3. Section 785 is added to the Public Utilities Code, to read:

785. (a) To the extent consistent with federal law and regulation and contractual obligations regarding other available gas, the commission shall, in consultation with the Division of Oil and Gas of the Department of Conservation and with the State Energy Resources Conservation and Development Commission, encourage, as a first priority, the increased production of gas in this state, including gas produced from that area of the Pacific Ocean along the coast of California commonly known as the outer continental shelf, and shall require, after a hearing, every gas corporation to purchase that gas which is compatible with the corporation's gas plant and which is produced in this state, unless this requirement will result in higher overall costs of gas or other consequences adverse to the interests of gas customers.

(b) During any hearing held pursuant to subdivision (a), but not more than once a year, the Business, Transportation and Housing Agency shall submit to the commission an analysis of the impact on the economy of the state and on the state and local governments of

the production of California gas. The commission shall take into consideration, to the extent it deems appropriate, the analysis as provided by the agency in determining the appropriate level of California gas production established under subdivision (a).

(c) On or before July 1, 1984, and annually thereafter, to and including January 1, 1986, the commission shall report to the Legislature on its implementation of this section, including the specific findings made by the Business, Transportation and Housing Agency pursuant to subdivision (b).

CHAPTER 1288

An act to amend Section 1360 of, and to add and repeal Chapter 2 (commencing with Section 1730) of Title 1 of Part 4 of, the Civil Code, and to amend Section 66412 of the Government Code, relating to subdivisions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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, and a copy of the most current financial statements, as defined in Section 1730, which have already been distributed to the owner of such a unit.

(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.

SEC. 2. Chapter 2 (commencing with Section 1730) is added to Title 1 of Part 4 of the Civil Code, to read:

CHAPTER 2. FINANCIAL STATEMENTS

1730. (a) Financial statements by a common-interest subdivision association shall be prepared and distributed to all its members by its board of directors as follows:

(1) A pro forma operating budget for the ensuing fiscal year shall be distributed within 60 days prior to the beginning of the next fiscal year. The budget shall include all of the following:

(A) The estimated revenue and expenses on an accrual basis.

(B) The identification of the total cash reserves currently set aside.

(C) The identification of the estimated remaining life and the methods of funding used to defray the future repair, replacement, or additions to those major components that are attributable to the areas for which the association is obligated.

(D) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that are attributable to the areas for which the association is obligated.

(2) A copy of a review of the financial statement of the association shall be prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy for any fiscal year in which the gross income to the association exceeds seventy-five thousand dollars ($75,000). The review of the financial statement shall be distributed within 120 days after the close of each fiscal year.

(3) A statement as to an association's policies and practices in enforcing the lien rights or other legal remedies for the default in the payment of its assessments against its members shall be delivered within 60 days prior to the beginning of the next fiscal year.

(b) As used in this section, "common-interest subdivision association" means any association, organization, corporation, or group of individuals which has been vested with the management responsibilities of ownership, operation, and furnishing of a common interest in subdivisions defined and described in Sections 11000 and 11004.5 of the Business and Professions Code, for and on behalf of other owners.

(c) If the governing instruments of an association have a more stringent standard than prescribed by this chapter, those instruments shall prevail over the provisions of this chapter.

(d) This section shall operate retrospectively as well as prospectively to the full extent that it may constitutionally operate retrospectively commencing with the new fiscal year of a common-interest subdivision association following June 30, 1984.

(e) This chapter shall remain in effect only until July 1, 1989, and on that date is repealed, unless a later enacted statute, which is chaptered before that date, deletes or extends that date.

SEC. 3. Section 66412 of the Government Code is amended to read:

66412. This division shall be inapplicable to:

(a) The financing or leasing of apartments, offices, stores or similar space within apartment buildings, industrial buildings, commercial buildings, mobilehome parks or trailer parks.

(b) Mineral, oil or gas leases.

(c) Land dedicated for cemetery purposes under the Health and Safety Code of the State of California.

(d) A lot line adjustment between two or more existing adjacent parcels, where the land taken from one parcel is added to an adjacent parcel, and where a greater number of parcels than originally existed is not thereby created, provided the lot line adjustment is approved by the local agency, or advisory agency.

(e) Boundary line or exchange agreements to which the State Lands Commission or a local agency holding a trust grant of tide and submerged lands is a party.

(f) Any separate assessment under Section 2188.7 of the Revenue and Taxation Code.

(g) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a community apartment project, as defined in Section 11004 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 75 percent of the units in the project were occupied by record owners of the project on March 31, 1982.

(2) A final or parcel map of the project was properly recorded, if the property was subdivided, as defined in Section 66424, after

January 1, 1964, with all of the conditions of that map remaining in effect after the conversion.

(3) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for such certification.

(h) Unless a parcel or final map was approved by the legislative body of a local agency, the conversion of a stock cooperative, as defined in Section 11003.2 of the Business and Professions Code, to a condominium, as defined in Section 783 of the Civil Code, but only if all of the following requirements are met:

(1) At least 51 percent of the units in the cooperative were occupied by stockholders of the cooperative on January 1, 1981, or individually owned by stockholders of the cooperative on January 1, 1981. As used in this paragraph a cooperative unit is "individually owned" if and only if the stockholder of such unit owns or partially owns an interest in no more than one unit in the cooperative.

(2) No more than 25 percent of the shares of the cooperative were owned by any one person, as defined in Section 17, including an incorporator or director of the cooperative, on January 1, 1981.

(3) A person renting a unit in a cooperative shall be entitled at the time of conversion to all tenant rights in state or local law, including, but not limited to, rights respecting first refusal, notice, and displacement and relocation benefits.

(4) The local agency certifies that the above requirements were satisfied if the local agency, by ordinance, provides for such certification.

SEC. 4. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide members of common-interest subdivision associations with accurate financial data as soon as possible, and in order to facilitate the conversion of stock cooperatives to condominiums for the benefit of individual residents, it is necessary that this act take effect immediately.

CHAPTER 1289

An act to amend Section 21191 of the Public Resources Code, and to amend Section 5106 of, to add Sections 5022, 5101.7, and 5107 to, and to add and repeal Section 5101.8 of, the Vehicle Code, relating to vehicle licenses, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1983 Filed with Secretary of State September 30, 1983]

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

SECTION 1. The Legislature finds and declares that support of the 1984 Olympic games in Los Angeles will benefit the stature and economy of the state, but the conduct of the games, like all other major special events, will require additional traffic control and law enforcement on the streets and highways. The Legislature further finds that the sale of commemorative license plates will provide a source of funds to pay the cost of that additional traffic control and law enforcement, to promote tourism in the state in conjunction with, before, and after the 1984 Olympic games, and to provide needed administrative funds for the Controller.

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, 5022, and Article 8.5 (commencing with Section 5100) of Chapter 1 of Division 3 of the Vehicle Code.

(c) 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.

(d) Until January 1, 1985, the Controller shall transfer to the Olympic Reflectorized License Plate Account in the State Transportation Fund all revenue derived from the issuance of commemorative 1984 Olympic reflectorized license plates pursuant to Sections 5022 and 5101.7 of the Vehicle Code less the administrative costs to the Department of Motor Vehicles in that regard.

(e) The Director of Motor Vehicles shall certify the amounts of the administrative costs of the Department of Motor Vehicles in subdivisions (b), (c), and (d) to the Controller.

(f) 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. However, all moneys derived from the issuance of commemorative 1984 Olympic reflectorized license plates in the Environmental License Plate Fund shall be used only for capital outlay purposes.

(g) 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 5022 is added to the Vehicle Code, to read:

5022. (a) Until December 31, 1984, any person described in Section 5101 may also apply for a set of commemorative 1984 Olympic reflectorized license plates and the department shall issue those special license plates in lieu of the regular license plates. No commemorative 1984 Olympic reflectorized license plates shall be issued pursuant to an application therefor which is submitted on or after January 1, 1985, but the holder of those plates may thereafter renew or retain them, obtain duplicate replacements for them, or transfer them to another vehicle, subject to this section.

(b) The commemorative 1984 Olympic reflectorized license plates shall be of a distinctive design and shall be available in a special series of letters or numbers, or both, as determined by the department after consultation with the Los Angeles Olympic Organizing Committee.

(c) In addition to the regular fees for an original registration or renewal of registration, the following special fees shall be paid:

(1) One hundred dollars ($100) for the initial issuance of the special plates.

(2) Twelve dollars ($12) for the transfer of the special plates to another vehicle.

(3) Thirty dollars ($30) for duplicate, replacement commemorative 1984 Olympic reflectorized license plates of the same number in the series.

(d) When payment of renewal fees is not required as specified in Section 4000, or when the person determines to retain the plates upon sale, trade, or other release of the vehicle upon which the special plates have been displayed, the person shall notify the department and the person may retain the special plates.

(e) Until December 31, 1989, duplicate, replacement plates shall be identical commemorative 1984 Olympic reflectorized license plates of the same letter, number, and design as originally issued. However, duplicate, replacement plates of the commemorative 1984 Olympic reflectorized license plate series shall not be available on or after January 1, 1990. Thereafter, unless otherwise provided by law, regular series plates shall be issued for the regular fee provided in Section 9265 whenever duplicates are permitted under this code.

(f) All revenue derived from the additional special fees provided in this section shall be deposited in the California Environmental License Plate Fund pursuant to Section 21191 of the Public Resources Code.

SEC. 4. Section 5101.7 is added to the Vehicle Code, to read:

5101.7. (a) Until December 31, 1984, any person described in

Section 5101 may also apply for a set of commemorative 1984 Olympic reflectorized license plates and the department shall issue those special license plates in lieu of the regular license plates. No commemorative 1984 Olympic reflectorized license plates shall be issued pursuant to an application therefor which is submitted on or after January 1, 1985, but the holder of those plates may thereafter renew or retain them, obtain duplicate replacements for them, or transfer them to another vehicle, subject to this article.

(b) Except as provided in this section, the issue, renewal, cancellation, retention, and transfer of the commemorative 1984 Olympic reflectorized license plates shall be subject to the provisions of this article as if they were environmental license plates. Until December 31, 1989, duplicate, replacement plates shall be identical commemorative 1984 Olympic reflectorized license plates of the same letter, number, and design as originally issued. On and after January 1, 1990, duplicate or replacement plates shall be provided pursuant to this article.

(c) Notwithstanding subdivision (a) of Section 5106, in addition to the regular registration fee, the applicant shall be charged a fee of one hundred dollars ($100) for a set of commemorative 1984 Olympic reflectorized license plates described in subdivision (d).

(d) Notwithstanding the color, design, and number of digit requirements of Section 5102, the department shall design the commemorative 1984 Olympic reflectorized license plates, which shall be reflectorized license plates issued pursuant to Section 4850. The commemorative 1984 Olympic reflectorized license plates shall be of a distinctive design, as determined by the department after consultation with the Los Angeles Olympic Organizing Committee, and shall be available, upon request in the application, in an indicated combination of letters or numbers, or both, and as requested as a registration number.

SEC. 5. Section 5101.8 is added to the Vehicle Code, to read:

5101.8. The Olympic Reflectorized License Plate Account is hereby created in the State Transportation Fund. The amounts in the account are available for expenditure upon appropriation by the Legislature for the support of state and local public agency efforts to provide traffic control and law enforcement and other security for the 1984 Olympic games in Los Angeles, to promote tourism in the state in conjunction with, before, and after those games, for administration by the Controller, and for the purposes and capital outlay uses of the California Environmental Protection Program.

Any unencumbered amount remaining in the fund on December 31, 1984, shall be transferred by the Controller to the California Environmental License Plate Fund for expenditure pursuant to subdivision (f) of Section 21191 of the Public Resources Code.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1985, deletes or extends that date.

SEC. 6. Section 5106 of the Vehicle Code, as amended by Chapter

323 of the Statutes of 1983, is amended to read:

5106. (a) Except as provided in Section 5101.7, 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 twenty dollars ($20). However, applicants for renewal of prisoner-of-war special license plates issued pursuant to Section 5101.5 shall not be charged the additional renewal fee under this subdivision.

(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 twenty dollars ($20). 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 or a duplicate, replacement commemorative 1984 Olympic reflectorized license plate shall be charged a fee of thirty dollars ($30).

SEC. 7. Section 5107 is added to the Vehicle Code, to read:

5107. All revenue derived from the fees provided for in this article shall be deposited in the California Environmental License Plate Fund.

SEC. 8. (a) In addition to any other provision of law, the Department of the California Highway Patrol may provide in-transit security at the 1984 Olympic games in Los Angeles.

(b) For the purposes of this act, "in-transit security" means services relating to the protection and safety of athletes competing in the 1984 Olympic games in Los Angeles while being transported by the Los Angeles Olympic Organizing Committee or its agents.

SEC. 9. The Controller shall transfer the sum of four hundred forty-six thousand dollars ($446,000) from the Motor Vehicle Account in the State Transportation Fund, as a loan, to the Olympic Reflectorized License Plate Account in the State Transportation Fund.

SEC. 10. The sum of ninety-six thousand dollars ($96,000) is hereby appropriated from the Olympic Reflectorized License Plate Account in the State Transportation Fund to the Department of Motor Vehicles for the purposes of Sections 5022 and 5101.7 of the Vehicle Code to permit early implementation of those sections.

SEC. 11. The sum of two hundred thousand dollars ($200,000) is hereby appropriated from the Olympic Reflectorized License Plate Account in the State Transportation Fund to the Office of Tourism in the Department of Economic and Business Development for expenditure in the 1983–84 and 1984–85 fiscal years for the promotion of tourism in the state in conjunction with, before, and after, the 1984 Olympic games in Los Angeles and for the promotion of sale of the commemorative 1984 Olympic reflectorized license plates. The

promotion of tourism under this section shall be other than the existing programs in the department to promote the 1984 Olympic games, may be provided by contract, and is intended to promote the extension of stay and travel within and throughout the state by those tourists attracted to the state by those games.

SEC. 12. The sum of one hundred fifty thousand dollars ($150,000) is hereby appropriated from the Olympic Reflectorized License Plate Account in the State Transportation Fund to the Controller for administration costs, including monitoring appropriate uses of revenues deposited in the Olympic Reflectorized License Plate Account in the State Transportation Fund. No expenditure of funds pursuant to Section 15 shall be made unless first approved by the Controller. The Controller may contract for legal services to assist in the administration of this act.

SEC. 13. The Controller shall transfer the sum of four hundred forty-six thousand dollars ($446,000) from the Olympic Reflectorized License Plate Account in the State Transportation Fund to the Motor Vehicle Account in the State Transportation Fund for repayment of the loan made pursuant to Section 9 from the first revenue accruing to the Olympic Reflectorized License Plate Account from the fees deposited in that account pursuant to subdivision (d) of Section 21191 of the Public Resources Code.

SEC. 14. Whenever funds are available to comply with Sections 10, 11, 12, and 13, the Controller shall transfer from the Olympic Reflectorized License Plate Account in the State Transportation Fund to the California Environmental License Plate Fund an amount equal to twenty-five dollars ($25) from the revenues deposited in the Olympic Reflectorized License Plate Account pursuant to subdivision (d) of Section 21191 of the Public Resources Code for each set of commemorative 1984 Olympic reflectorized license plates issued after the funds needed to comply with Sections 10, 11, 12, and 13 are available. The amounts transferred pursuant to this section shall be available upon appropriation by the Legislature for expenditure pursuant to subdivision (f) of Section 21191 of the Public Resources Code.

SEC. 15. The sum of one million five hundred thousand dollars ($1,500,000) is hereby appropriated from the Olympic Reflectorized License Plate Account in the State Transportation Fund to the Sheriff of the County of Los Angeles for expenditure in the 1983–84 and 1984–85 fiscal years for planning and implementing security, traffic control, and law enforcement in relation to the 1984 Olympic games in Los Angeles. The Sheriff of the County of Los Angeles shall consult with the Los Angeles Olympic Organizing Committee when the sheriff provides in-transit security at the 1984 Olympic games in Los Angeles.

The amounts disbursed under this appropriation shall be from the next moneys which are deposited in the Olympic Reflectorized License Plate Account pursuant to subdivision (d) of Section 21191 of the Public Resources Code after the funds are available to comply

with Sections 10, 11, 12, 13, and 14.

SEC. 16. The remainder of the funds in the Olympic Reflectorized License Plate ccount in the State Transportation Fund, shall be available upon appropriation by the Legislature for the purpose of providing security and traffic control and law enforcement by state and local public agencies in relation to the 1984 Olympic games in Los Angeles.

SEC. 17. (a) Notwithstanding any other provision of law, this section governs the competitive bidding procedure to be used by the Office of Procurement in the Department of General Services in awarding the contract for the manufacture of the reflectorized material used on the commemorative 1984 Olympic reflectorized license plates provided for in Sections 5022 and 5110.7 of the Vehicle Code.

(b) The office shall develop specifications upon which to base its award of the contract to manufacture the reflectorized material. The specifications shall include, but need not be limited to, the requirements for the plates contained in Sections 5022 and 5110.7 of the Vehicle Code.

(c) The office shall distribute invitations to bid so that all persons, corporations, or other entities which the office determines are likely to be interested in bidding are aware of the opportunity to bid. Any person, corporation, or other entity invited to bid that is interested in bidding shall have 15 days, inclusive, from the date that the person, corporation, or entity received the invitation to prepare a bid and submit the bid to the office. The office shall then have 15 days, inclusive, from the date that the latest bid is due to be received from a potential bidder to select the manufacturer of the reflectorized material.

(d) The selection made by the office pursuant to this section is final.

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:

In order to permit the planning, manufacturing, and implementation of the issue of commemorative 1984 Olympic reflectorized license plates by January 1, 1984, so that they will be ready in time for their intended use, it is necessary that this act take effect immediately.